



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Civil Liberties, Justice and Home Affairs

2009/0165(COD)

24.1.2011

AMENDMENTS

54 - 286

Draft report
Sylvie Guillaume
(PE452.774v01-00)

on the proposal for a directive of the European Parliament and of the Council
on minimum standards on procedures in Member States for granting and
withdrawing international protection (recast)

Proposal for a directive
(COM(2009)0554 – C7-0248/2009 – 2009/0165(COD))

AM\853403EN.doc

PE456.698v01-00

EN

United in diversity

EN

Amendment 54
Georgios Papanikolaou

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) The resources of the European Refugee Fund and of the European Asylum Support Office **should** be mobilised to provide adequate support to the Member States' efforts relating to the implementation of the standards set in the second phase of the Common European Asylum System, in particular to those Member States which are faced with specific and disproportionate pressures on their asylum systems, due in particular to their geographical or demographic situation.

Amendment

(8) The resources of the European Refugee Fund and of the European Asylum Support Office **must** be mobilised, ***inter alia***, to provide adequate support to the Member States' efforts relating to the implementation of the standards set in the second phase of the Common European Asylum System, in particular to those Member States which are faced with specific and disproportionate pressures on their asylum systems, due in particular to their geographical or demographic situation. ***In Member States that accept a disproportionately large number of asylum applications in relation to the size of their population, financial support and administrative/technical support must be mobilised immediately under the European Refugee Fund and the European Asylum Support Office respectively in order to enable them to comply with the provisions of this Directive.***

Or. el

Amendment 55
Daniël van der Stoep

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) The main objective of this Directive is to develop further minimum standards for procedures in Member States for granting and withdrawing international protection ***with a view to establishing a common***

Amendment

(10) The main objective of this Directive is to develop further minimum standards for procedures in Member States for granting and withdrawing international protection.

asylum procedure in the Community.

Or. nl

Amendment 56

Kyriacos Triantaphyllides, Cornelis de Jong, Rui Tavares, Cornelia Ernst, Marie-Christine Vergiat

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular this Directive seeks to promote the application of Articles 1, 18, 19, 21, 24 and 47 of the Charter and has to be implemented accordingly.

Amendment

(13) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union. In particular this Directive seeks to promote the application of **Articles 1, 4**, 18, 19, 21, 24 and 47 of the Charter and has to be implemented accordingly.

Or. en

Amendment 57

Sophia in 't Veld

Proposal for a directive

Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) Member States are obliged to fully respect the principle of non-refoulement and the right to asylum, which includes access to an asylum procedure for any person who wishes to claim asylum and who is in their jurisdiction, including those under the effective control of an EU or Member State body.

Or. en

Amendment 58

Anna Maria Corazza Bildt, Véronique Mathieu, Mariya Nedelcheva, Simon Busuttil

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) It is essential that decisions on all applications for international protection be taken on the basis of the facts and, in the first instance, by authorities whose personnel has the appropriate knowledge **or** receives the necessary training in the field of asylum and refugee matters.

Amendment

(15) It is essential that decisions on all applications for international protection be taken on the basis of the facts and, in the first instance, by authorities whose personnel has the appropriate knowledge **and** receives the necessary training in the field of asylum and refugee matters.

Or. en

Amendment 59

Mario Borghezio

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) In the interests of a correct recognition of those persons in need of protection as refugees within the meaning of Article 1 of the Geneva Convention or as persons eligible for subsidiary protection, every applicant should have an effective access to procedures, the opportunity to cooperate and properly communicate with the competent authorities so as to present the relevant facts of his/her case and sufficient procedural guarantees to pursue his/her case throughout all stages of the procedure. Moreover, the procedure in which an application for international protection is examined should normally provide an applicant at least with the right to stay pending a decision by the determining authority, access to the services of an interpreter for submitting his/her case if interviewed by the authorities, the opportunity to communicate with a

Amendment

(18) In the interests of a correct recognition of those persons in need of protection as refugees within the meaning of Article 1 of the Geneva Convention or as persons eligible for subsidiary protection, every applicant should have an effective access to procedures, the opportunity to cooperate and properly communicate with the competent authorities so as to present the relevant facts of his/her case and sufficient procedural guarantees to pursue his/her case throughout all stages of the procedure. Moreover, the procedure in which an application for international protection is examined should normally provide an applicant at least with the right to stay pending a decision by the determining authority, access to the services of an interpreter for submitting his/her case if interviewed by the authorities, the opportunity to communicate with a

representative of the United Nations High Commissioner for Refugees (UNHCR) and with organizations providing advice or counselling to applicants for international protection, the right to appropriate notification of a decision, a motivation of that decision in fact and in law, the opportunity to consult a legal adviser or other counsellor, and the right to be informed of his/her legal position at decisive moments in the course of the procedure, in a language he/she **can reasonably be supposed to understand** and, in the case of a negative decision, the right to an effective remedy before a court or tribunal.

representative of the United Nations High Commissioner for Refugees (UNHCR) and with organizations providing advice or counselling to applicants for international protection, the right to appropriate notification of a decision, a motivation of that decision in fact and in law, the opportunity to consult a legal adviser or other counsellor, and the right to be informed of his/her legal position at decisive moments in the course of the procedure, in a language he/she **understands** and, in the case of a negative decision, the right to an effective remedy before a court or tribunal.

Or. it

Amendment 60
Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) In the interests of a correct recognition of those persons in need of protection as refugees within the meaning of Article 1 of the Geneva Convention or as persons eligible for subsidiary protection, every applicant should have an effective access to procedures, the opportunity to cooperate and properly communicate with the competent authorities so as to present the relevant facts of his/her case and **sufficient** procedural guarantees to pursue his/her case throughout all stages of the procedure. Moreover, the procedure in which an application for international protection is examined **should** normally provide an applicant at least with the right to stay pending a decision by the determining authority, access to the services of an interpreter for submitting his/her case if

Amendment

(18) In the interests of a correct recognition of those persons in need of protection as refugees within the meaning of Article 1 of the Geneva Convention or as persons eligible for subsidiary protection, every applicant should have an effective access to procedures, the opportunity to cooperate and properly communicate with the competent authorities so as to present the relevant facts of his/her case and **effective** procedural guarantees to pursue his/her case throughout all stages of the procedure. Moreover, the procedure in which an application for international protection is examined **must** normally provide an applicant at least with the right to stay pending a decision by the determining authority **and, in the case of a negative decision, the time necessary for seeking a**

interviewed by the authorities, the opportunity to communicate with a representative of the United Nations High Commissioner for Refugees (UNHCR) and with organizations providing advice or counselling to applicants for international protection, the right to appropriate notification of a decision, a motivation of that decision in fact and in law, the opportunity to consult a legal adviser or other counsellor, and the right to be informed of his/her legal position at decisive moments in the course of the procedure, in a language he/she can **reasonably be supposed to** understand and, in the case of a negative decision, the right to an effective remedy before a court or tribunal.

judicial remedy, access to the services of an interpreter for submitting his/her case if interviewed by the authorities, the opportunity to communicate with a representative of the United Nations High Commissioner for Refugees (UNHCR) and with organizations providing advice or counselling to applicants for international protection, the right to appropriate notification of a decision, a motivation of that decision in fact and in law, the opportunity to consult a legal adviser or other counsellor, and the right to be informed of his/her legal position at decisive moments in the course of the procedure, in a language he/she can understand and, in the case of a negative decision, the right to an effective remedy before a court or tribunal.

Or. en

Amendment 61 **Sophia in 't Veld**

Proposal for a directive **Recital 18**

Text proposed by the Commission

(18) In the interests of a correct recognition of those persons in need of protection as refugees within the meaning of Article 1 of the Geneva Convention or as persons eligible for subsidiary protection, every applicant should have an effective access to procedures, the opportunity to cooperate and properly communicate with the competent authorities so as to present the relevant facts of his/her case and sufficient procedural guarantees to pursue his/her case throughout all stages of the procedure. Moreover, the procedure in which an application for international protection is examined should normally provide an applicant at least with the right to stay pending a decision by the determining

Amendment

(18) In the interests of a correct recognition of those persons in need of protection as refugees within the meaning of Article 1 of the Geneva Convention or as persons eligible for subsidiary protection, every applicant should have an effective access to procedures, the opportunity to cooperate and properly communicate with the competent authorities so as to present the relevant facts of his/her case and sufficient procedural guarantees to pursue his/her case throughout all stages of the procedure. Moreover, the procedure in which an application for international protection is examined should normally provide an applicant at least with the right to stay pending a **final** decision by the

authority, access to the services of an interpreter for submitting his/her case if interviewed by the authorities, the opportunity to communicate with a representative of the United Nations High Commissioner for Refugees (UNHCR) and with organizations providing advice or counselling to applicants for international protection, the right to appropriate notification of a decision, a motivation of that decision in fact and in law, the opportunity to consult a legal adviser or other counsellor, and the right to be informed of his/her legal position at decisive moments in the course of the procedure, in a language he/she can reasonably be supposed to understand and, in the case of a negative decision, the right to an effective remedy before a court or tribunal.

determining authority, ***including in cases where an applicant lodges an appeal, and for so long as a competent court or tribunal so authorises***, access to the services of an interpreter for submitting his/her case if interviewed by the authorities, the opportunity to communicate with a representative of the United Nations High Commissioner for Refugees (UNHCR) and with organizations providing advice or counselling to applicants for international protection, the right to appropriate notification of a decision, a motivation of that decision in fact and in law, the opportunity to consult a legal adviser or other counsellor, and the right to be informed of his/her legal position at decisive moments in the course of the procedure, in a language he/she can reasonably be supposed to understand and, in the case of a negative decision, the right to an effective remedy before a court or tribunal.

Or. en

Amendment 62 **Monika Hohlmeier**

Proposal for a directive **Recital 20**

Text proposed by the Commission

(20) In addition, special ***procedural guarantees for*** vulnerable applicants, such as minors, unaccompanied minors, persons who have been subjected to torture, rape or other serious acts of violence or disabled persons, ***should be laid down*** in order to create the conditions necessary for their effective access to procedures and presenting the elements needed to substantiate the application for international protection.

Amendment

(20) In addition, ***particular attention should be paid to the special needs of*** vulnerable applicants, such as minors, unaccompanied minors, persons who have been subjected to torture, rape or other serious acts of violence or disabled persons, in order to create the conditions necessary for their effective access to procedures and presenting the elements needed to substantiate the application for international protection.

Justification

The authorities should be compelled to ensure that particularly vulnerable applicants will be able to deal with the procedure effectively and their special circumstances taken into consideration. However, this must not cause any new obstacles to the procedure or opportunities for abuse to arise, in line with the aim of the recast of keeping the procedure as short and effective as possible.

Amendment 63**Hélène Flautre on behalf of the Verts/ALE Group****Proposal for a directive****Recital 20***Text proposed by the Commission*

(20) In addition, special procedural guarantees for vulnerable applicants, such as minors, unaccompanied minors, persons who have been subjected to torture, rape or other serious acts of violence or disabled persons, should be laid down in order to create the conditions necessary for their effective access to procedures and presenting the elements needed to substantiate the application for international protection.

Amendment

(20) In addition, special procedural guarantees for vulnerable applicants, such as minors, unaccompanied minors, ***pregnant women***, persons who have been subjected to torture, rape or other serious acts of violence or disabled persons, should be laid down in order to create the conditions necessary for their effective access to procedures and presenting the elements needed to substantiate the application for international protection.

Or. en

Amendment 64**Sylvie Guillaume****Proposal for a directive****Recital 20***Text proposed by the Commission*

(20) In addition, special procedural guarantees for vulnerable applicants, such as minors, unaccompanied minors, persons who have been subjected to torture, rape or

Amendment

(20) In addition, special procedural guarantees for vulnerable applicants, such as minors, unaccompanied minors, persons who have been subjected to torture, rape or

other serious acts of violence or disabled persons, should be laid down in order to create the conditions necessary for their effective access to procedures and presenting the elements needed to substantiate the application for international protection.

other serious acts of violence, *such as violence based on gender and harmful traditional practices*, or disabled persons, should be laid down in order to create the conditions necessary for their effective access to procedures and presenting the elements needed to substantiate the application for international protection.

Or. fr

Amendment 65

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Recital 22

Text proposed by the Commission

(22) With a view to ensuring substantive equality between female and male applicants, examination procedures should be gender sensitive. In particular, personal interviews should be organised in a way which makes it possible for both female and male applicants to speak about their past experiences in cases involving gender based persecution. The complexity of gender related claims should be properly taken into account in procedures based on the safe third country concept, the safe country of origin concept or the notion of subsequent applications.

Amendment

(22) With a view to ensuring substantive equality between female and male applicants, examination procedures should be gender sensitive. In particular, personal interviews should be organised in a way which makes it possible for both female and male applicants to speak about their past experiences in cases involving gender based persecution *to an interviewer of the same sex if so requested, who has specific training on the issue of interviews regarding gender based prosecution*. The complexity of gender related claims should be properly taken into account in procedures based on the safe third country concept, the safe country of origin concept or the notion of subsequent applications.

Or. en

Amendment 66

Alfredo Pallone, Clemente Mastella

Proposal for a directive

Recital 22

Text proposed by the Commission

(22) With a view to ensuring substantive equality between female and male applicants, examination procedures should be **gender** sensitive. In particular, personal interviews should be organised in a way which makes it possible for both female and male applicants to speak about their past experiences in cases involving **gender** based persecution. The complexity of **gender** related claims should be properly taken into account in procedures based on the safe third country concept, the safe country of origin concept or the notion of subsequent applications.

Amendment

(22) With a view to ensuring substantive equality between female and male applicants, examination procedures should be sensitive **to the specificities of the two sexes**. In particular, personal interviews should be organised in a way which makes it possible for both female and male applicants to speak about their past experiences in cases involving **sex**-based persecution. The complexity of **sex**-related claims should be properly taken into account in procedures based on the safe third country concept, the safe country of origin concept or the notion of subsequent applications.

Or. it

Justification

The reference to the term 'gender' seems legally incorrect, inter alia in relation to the formulation of the Treaties, which always refer to 'sex', never to 'gender'. Moreover, the concept of 'gender' is of a 'moral' character and cannot be regarded as commonly accepted.

Amendment 67

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Recital 24

Text proposed by the Commission

(24) Procedures for examining international protection needs should be organised in a way that makes it possible for the **competent** authorities to conduct a rigorous examination of applications for international protection.

Amendment

(24) Procedures for examining international protection needs should be organised in a way that makes it possible for the **determining** authorities to conduct a rigorous examination of applications for international protection.

Or. en

Amendment 68
Mario Borghezio

Proposal for a directive
Recital 25

Text proposed by the Commission

(25) Where an applicant makes a subsequent application without presenting new evidence or arguments, it would be disproportionate to oblige Member States to carry out a new full examination procedure. In these cases, Member States should ***be able to*** dismiss an application as inadmissible in accordance with the res judicata principle.

Amendment

(25) Where an applicant makes a subsequent application without presenting new evidence or arguments, it would be disproportionate to oblige Member States to carry out a new full examination procedure. In these cases, Member States should dismiss an application as inadmissible in accordance with the res judicata principle.

Or. it

Amendment 69
Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Recital 25

Text proposed by the Commission

(25) Where an applicant makes a subsequent application without presenting new evidence or arguments, it would be disproportionate to oblige ***Member States*** to carry out a new full examination procedure. In these cases, ***Member States*** should be able to dismiss an application as inadmissible in accordance with the res judicata principle.

Amendment

(25) Where an applicant makes a subsequent application without presenting new evidence or arguments, it would be disproportionate to oblige ***determining authorities*** to carry out a new full examination procedure. In these cases, ***the determining authorities*** should be able to dismiss an application as inadmissible in accordance with the res judicata principle.

Or. en

Amendment 70
Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Recital 26

Text proposed by the Commission

(26) Many applications for international protection are made at the border or in a transit zone of a Member State prior to a decision on the entry of the applicant. **Member States** should be able to provide for admissibility and/or substantive examination procedures which make it possible to decide on applications made at the border or in transit zones at those locations.

Amendment

(26) Many applications for international protection are made at the border or in a transit zone of a Member State prior to a decision on the entry of the applicant. **Determining authorities** should be able to provide for admissibility and/or substantive examination procedures which make it possible to decide on applications made at the border or in transit zones at those locations.

Or. en

Amendment 71
Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Recital 27

Text proposed by the Commission

(27) A key consideration for the well-foundedness of an application for international protection is the safety of the applicant in his/her country of origin. Where a third country can be regarded as a safe country of origin, Member States should be able to designate it as safe and presume its safety for a particular applicant, unless he/she presents counter-indications.

Amendment

deleted

Or. en

Amendment 72
Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Recital 28

Text proposed by the Commission

Amendment

(28) Given the level of harmonisation achieved on the qualification of third country nationals and stateless persons as refugees, common criteria for designating third countries as safe countries of origin should be established. *deleted*

Or. en

Amendment 73

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Recital 29

Text proposed by the Commission

Amendment

(29) The designation of a third country as a safe country of origin for the purposes of this Directive cannot establish an absolute guarantee of safety for nationals of that country. By its very nature, the assessment underlying the designation can only take into account the general civil, legal and political circumstances in that country and whether actors of persecution, torture or inhuman or degrading treatment or punishment are subject to sanction in practice when found liable in the country concerned. For this reason, it is important that, where an applicant shows that there are valid reasons to consider the country not to be safe in his/her particular circumstances, the designation of the country as safe can no longer be considered relevant for him/her. *deleted*

Or. en

Amendment 74
Mario Borghezio

Proposal for a directive
Recital 30

Text proposed by the Commission

(30) Member States should examine all applications on the substance, i.e. assess whether the applicant in question qualifies for international protection in accordance with Directive [...../EC] [the Qualification Directive] ***except where the present Directive provides otherwise, in particular where it can be reasonably assumed that another country would do the examination or provide sufficient protection.*** In particular, Member States ***should not be*** obliged to assess the substance of an application for international protection where a first country of asylum has granted the applicant refugee status or otherwise sufficient protection and the applicant will be readmitted to this country.

Amendment

(30) Member States should examine all applications on the substance, i.e. assess whether the applicant in question qualifies for international protection in accordance with Directive [...../EC] [the Qualification Directive]. In particular, Member States ***are*** obliged to assess the substance of an application for international protection where a first country of asylum has granted the applicant refugee status or otherwise sufficient protection and the applicant will be readmitted to this country.

Or. it

Amendment 75
Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Recital 30

Text proposed by the Commission

(30) Member States should examine all applications on the substance, i.e. assess whether the applicant in question qualifies for international protection in accordance with Directive [...../EC] [the Qualification Directive] except where the present Directive provides otherwise, in particular where it can be ***reasonably assumed*** that another country would do the examination

Amendment

(30) Member States should examine all applications on the substance, i.e. assess whether the applicant in question qualifies for international protection in accordance with Directive [...../EC] [the Qualification Directive] except where the present Directive provides otherwise, in particular where it can be ***ensured*** that another country would do the examination or

or provide *sufficient* protection. In particular, Member States should not be obliged to assess the substance of an application for international protection where a first country of asylum has granted the applicant refugee status *or otherwise sufficient protection and the applicant will be readmitted to this country.*

provide *accessible and efficient* protection. In particular, Member States should not be obliged to assess the substance of an application for international protection where a first country of asylum has granted the applicant refugee status.

Or. en

Amendment 76
Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Recital 31

Text proposed by the Commission

Amendment

(31) Member States should also not be obliged to assess the substance of an application for international protection where the applicant, due to a sufficient connection to a third country as defined by national law, can reasonably be expected to seek protection in that third country, and there are grounds for considering that the applicant will be admitted or re-admitted to that country. Member States should only proceed on this basis where this particular applicant would be safe in the third country concerned. In order to avoid secondary movements of applicants, common principles for the consideration or designation by Member States of third countries as safe should be established.

deleted

Or. en

Amendment 77
Mario Borghezio

Proposal for a directive
Recital 31

Text proposed by the Commission

(31) Member States **should** also not **be** obliged to assess the substance of an application for international protection where the applicant, due to a sufficient connection to a third country as defined by national law, can reasonably be expected to seek protection in that third country, and there are grounds for considering that the applicant will be admitted or re-admitted to that country. Member States should only proceed on this basis where this particular applicant would be safe in the third country concerned. In order to avoid secondary movements of applicants, common principles for the consideration or designation by Member States of third countries as safe should be established.

Amendment

(31) Member States **are** also not obliged to assess the substance of an application for international protection where the applicant, due to a sufficient connection to a third country as defined by national law, can reasonably be expected to seek protection in that third country, and there are grounds for considering that the applicant will be admitted or re-admitted to that country. Member States should only proceed on this basis where this particular applicant would be safe in the third country concerned. In order to avoid secondary movements of applicants, common principles for the consideration or designation by Member States of third countries as safe should be established.

Or. it

Amendment 78

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Recital 32

Text proposed by the Commission

(32) Furthermore, with respect to certain European third countries, which observe particularly high human rights and refugee protection standards, Member States should be allowed to not carry out, or not to carry out full examination of asylum applications regarding applicants who enter their territory from such European third countries.

Amendment

deleted

Or. en

Amendment 79
Mario Borghezio

Proposal for a directive
Recital 39

Text proposed by the Commission

(39) Since the objective of this Directive, namely to establish minimum standards on procedures in Member States for granting and withdrawing international protection cannot be sufficiently attained by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at *Community* level, the *Community* may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve this objective.

Amendment

(39) Since the objective of this Directive, namely to establish minimum standards on procedures in Member States for granting and withdrawing international protection, cannot be sufficiently attained by the ***individual*** Member States and can therefore, by reason of the scale and effects of the action, be better achieved at *Union* level, the *Union* may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve this objective.

Or. it

Amendment 80
Mario Borghezio

Proposal for a directive
Article 2 – point c

Text proposed by the Commission

(c) "applicant" or "applicant for international protection" means a third country national or stateless person who has made an application for international protection in respect of which a final decision has not yet been taken;

Amendment

(c) *Does not affect English version.*

Or. it

Amendment 81
Monika Hohlmeier, Simon Busuttill

Proposal for a directive
Article 2 – point d

Text proposed by the Commission

(d) ‘applicant with special needs’ means an applicant who due to age, gender, disability, mental **health problems** or consequences of torture, rape or other serious forms of psychological, physical or sexual violence is in need of special guarantees in order to benefit from the rights and comply with the obligations in accordance with this Directive;

Amendment

(d) ‘applicant with special needs’ means an applicant who due to age, gender, disability, **physical or** mental **illnesses** or consequences of torture, rape or other serious forms of psychological, physical or sexual violence is in need of special guarantees in order to benefit from the rights and comply with the obligations in accordance with this Directive;

Or. de

Justification

The expression ‘mental health problem’ is not clear and leads to legal uncertainty. Taking into account mental strain as a result of violence and the acts of persecution defined is compulsory, according to the Qualification Directive and this abridged version. It would therefore be better to refer to mental and physical illnesses.

Amendment 82
Sophia in 't Veld

Proposal for a directive
Article 2 – point d

Text proposed by the Commission

(d) ‘applicant with special needs’ means an applicant who due to age, gender, disability, mental health problems or consequences of torture, rape or other serious forms of psychological, physical or sexual violence is in need of special guarantees in order to benefit from the rights and comply with the obligations in accordance with this Directive;

Amendment

(d) ‘applicant with special needs’ means an applicant who due to age, gender, **sexual orientation, gender identity**, disability, mental health problems or consequences of torture, rape or other serious forms of psychological, physical or sexual violence is in need of special guarantees in order to benefit from the rights and comply with the obligations in accordance with this Directive;

Amendment 83
Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 2 – point d

Text proposed by the Commission

(d) ‘applicant with special needs’ means an applicant who due to age, gender, disability, mental health problems or consequences of torture, rape or other serious forms of psychological, physical or sexual violence is in need of special guarantees in order to benefit from the rights and comply with the obligations in accordance with this Directive;

Amendment

(d) ‘applicant with special needs’ means an applicant who due to age, gender, **gender identity**, disability, mental health problems or consequences of torture, rape or other serious forms of psychological, physical or sexual violence is in need of special guarantees in order to benefit from the rights and comply with the obligations in accordance with this Directive;

Or. en

Amendment 84
Mario Borghezio

Proposal for a directive
Article 2 – point p

Text proposed by the Commission

(p) "remain in the Member State" means to remain in the territory, including at the border or in transit zones, of the Member State in which the application for international protection has been made or is being examined.

Amendment

deleted

Or. it

Amendment 85
Ernst Strasser

Proposal for a directive
Article 2 – point p a (new)

Text proposed by the Commission

Amendment

(pa) "subsequent application" means a further application after a final decision;

Or. en

Amendment 86
Sophia in 't Veld

Proposal for a directive
Article 2 – point p b (new)

Text proposed by the Commission

Amendment

(pb) "new facts and circumstances" means facts supporting the essence of the claim, which could contribute to a revision of an earlier decision.

Or. en

Amendment 87
Sophia in 't Veld

Proposal for a directive
Article 4 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) applicants with special needs, as defined in Article 2(d);

Or. en

Amendment 88
Kyriacos Triantaphyllides, Cornelis de Jong, Rui Tavares, Cornelia Ernst, Marie-Christine Vergiat

Proposal for a directive
Article 4 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) gender, trauma and age awareness;

(b) gender, ***sexual orientation***, trauma and age awareness;

Or. en

Amendment 89

Anna Maria Corazza Bildt, Véronique Mathieu, Mariya Nedelcheva, Simon Busuttil

Proposal for a directive

Article 4 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) gender, trauma and age awareness;

(b) gender, trauma and age awareness, ***with particular attention being paid to unaccompanied minors***;

Or. en

Amendment 90

Alfredo Pallone, Clemente Mastella, Salvatore Iacolino

Proposal for a directive

Article 4 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) ***gender***, trauma and age awareness;

(b) ***sex***, trauma and age awareness;

Or. it

Justification

The reference to the term ‘gender’ seems legally incorrect, inter alia in relation to the formulation of the Treaties, which always refer to ‘sex’, never to ‘gender’. Moreover, the concept of ‘gender’ is of a ‘moral’ character and cannot be regarded as commonly accepted.

Amendment 91
Monika Hohlmeier

Proposal for a directive
Article 4 – paragraph 2 – point f

Text proposed by the Commission

Amendment

(f) evidence assessment, including the principle of the benefit of the doubt; ***deleted***

Or. de

Justification

'The benefit of the doubt' is not a recognised principle of the asylum procedure, and neither is it dealt with in the Geneva Convention on Refugees.

Amendment 92
Kyriacos Triantaphyllides, Cornelis de Jong, Rui Tavares, Cornelia Ernst, Marie-Christine Vergiat

Proposal for a directive
Article 4 – paragraph 3

Text proposed by the Commission

Amendment

3. However, Member States may provide that another authority is responsible for the purpose of processing cases pursuant to Regulation (EC) No .../.... [the Dublin Regulation]. ***deleted***

Or. en

Justification

It is important for the determining authority which is well acquainted with all asylum cases to also be responsible for Dublin cases.

Amendment 93

Hélène Flautre on behalf of the Verts/ALE Group

**Proposal for a directive
Article 4 – paragraph 3**

Text proposed by the Commission

Amendment

3. However, Member States may provide that another authority is responsible for the purpose of processing cases pursuant to Regulation (EC) No .../.... [the Dublin Regulation].

deleted

Or. en

Amendment 94

Hélène Flautre on behalf of the Verts/ALE Group

**Proposal for a directive
Article 4 – paragraph 4**

Text proposed by the Commission

Amendment

4. Where an authority is designated in accordance with paragraph 3, Member States shall ensure that the personnel of that authority have the appropriate knowledge or receive the necessary training to fulfil their obligations when implementing this Directive.

deleted

Or. en

Amendment 95

Anna Maria Corazza Bildt, Véronique Mathieu, Mariya Nedelcheva, Simon Busuttil

**Proposal for a directive
Article 4 – paragraph 4**

Text proposed by the Commission

Amendment

4. Where an authority is designated in accordance with paragraph 3, Member

4. Where an authority is designated in accordance with paragraph 3, Member

States shall ensure that the personnel of that authority have the appropriate knowledge *or* receive the necessary training to fulfil their obligations when implementing this Directive.

States shall ensure that the personnel of that authority have the appropriate knowledge *and* receive the necessary training to fulfil their obligations when implementing this Directive.

Or. en

Amendment 96
Monika Hohlmeier

Proposal for a directive
Article 6 – paragraph 5

Text proposed by the Commission

5. Member States shall ensure that a minor has the right to make an application for international protection either on his/her own behalf, or through his/her *parents or other adult family members*.

Amendment

5. Member States shall ensure that a minor has the right to make an application for international protection either on his/her own behalf – *if he/she is considered under national law as capable of bringing proceedings* – or through his/her *legal representative or the latter’s authorised representative*. *In all other cases Article 6(6) shall apply.*

Or. de

Amendment 97
Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 6 – paragraph 8 – subparagraph 1

Text proposed by the Commission

8. Member States shall ensure that border guards, police and immigration authorities, and personnel of detention facilities have instructions and receive necessary training for *dealing with* applications for international protection. *If these authorities are designated as competent authorities pursuant to paragraph 1, the instructions shall include an obligation to*

Amendment

8. Member States shall ensure that border guards, police and immigration authorities, and personnel of detention facilities have instructions and receive necessary training for *accepting and registering* applications for international protection. *The* instructions shall *then* require the application to be forwarded to the authority competent for *processing the registered*

register the application. In other cases, the instructions shall require to forward the application to the authority competent for **this registration** together with all relevant information.

application together with all relevant information.

Or. en

Amendment 98
Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 7 – paragraph 2

Text proposed by the Commission

2. Member States shall provide for interpretation arrangements in order to ensure communication between persons who wish to make an application for international protection and border guards or personnel of detention facilities.

Amendment

2. Member States shall provide for **free** interpretation arrangements in order to ensure communication between persons who wish to make an application for international protection and border guards or personnel of detention facilities.

Or. en

Amendment 99
Daniël van der Stoep

Proposal for a directive
Article 7 – paragraph 2

Text proposed by the Commission

2. Member States **shall** provide for interpretation arrangements in order to ensure communication between persons who wish to make an application for international protection and border guards or personnel of detention facilities.

Amendment

2. Member States **may** provide for interpretation arrangements in order to ensure communication between persons who wish to make an application for international protection and border guards or personnel of detention facilities.

Or. nl

Amendment 100
Sophia in 't Veld

Proposal for a directive
Article 7 – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Member States shall ensure that organizations providing advice and counseling to applicants for international protection have access to the border crossing points, including transit zones, and detention facilities subject to an agreement with the competent authorities of the Member State.

Amendment

3. Member States shall ensure that organizations providing **legal** advice and **representation and** counselling to applicants for international protection have access to the border crossing points, including transit zones, and detention facilities subject to an agreement with the competent authorities of the Member State.

Or. en

Amendment 101
Kyriacos Triantaphyllides, Cornelis de Jong, Rui Tavares, Cornelia Ernst, Marie-Christine Vergiat

Proposal for a directive
Article 7 – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Member States shall ensure that organizations providing advice and counseling to applicants for international protection have access to the border crossing points, including transit zones, and detention facilities **subject to an agreement with the competent authorities of the Member State.**

Amendment

3. Member States shall ensure that organizations providing advice, counselling and **legal representation** to applicants for international protection have access to the border crossing points, including transit zones, and detention facilities.

Or. en

Amendment 102

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 7 – paragraph 3 – subparagraph 1

Text proposed by the Commission

3. Member States shall ensure that organizations providing advice and counseling to applicants for international protection have access to the border crossing points, including transit zones, and detention facilities subject to an agreement with the competent authorities of the Member State.

Amendment

3. Member States shall ensure that organizations providing advice and counseling to applicants for international protection have ***unobstructed*** access to the border crossing points, including transit zones, and detention facilities subject to an agreement with the competent authorities of the Member State.

Or. en

Amendment 103

Anna Maria Corazza Bildt, Véronique Mathieu

Proposal for a directive

Article 7 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Member States may provide for rules covering the presence of such organizations in the areas referred to in this Article.

Amendment

Member States may provide for rules covering the presence of such organizations in the areas referred to in this Article, ***as long as they do not limit access by applicants to advice and counselling*** .

Or. en

Amendment 104

Sophia in 't Veld

Proposal for a directive

Article 8 – paragraph 1

Text proposed by the Commission

1. Applicants shall be allowed to remain in the Member State, for the sole purpose of the procedure, until the determining authority has made a decision ***in accordance with the procedures at first instance set out in Chapter III***. This right to remain shall not constitute an entitlement to a residence permit.

Amendment

1. Applicants shall be allowed to remain in the Member State, for the sole purpose of the procedure, until the determining authority has made a ***final*** decision, ***including in cases where an applicant lodges an appeal, and for as long as a competent court or tribunal so authorises***. This right to remain shall not constitute an

entitlement to a residence permit.

Or. en

Amendment 105

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 8 – paragraph 1

Text proposed by the Commission

1. Applicants shall be allowed to remain in the Member State, for the sole purpose of the procedure, until the determining authority has made a decision in accordance with the procedures at first instance set out in Chapter III. ***This right to remain shall not constitute an entitlement to a residence permit.***

Amendment

1. Applicants shall be allowed to remain in the Member State, for the sole purpose of the procedure, until the determining authority has made a decision in accordance with the procedures at first instance set out in Chapter III.

Or. en

Amendment 106

Monika Hohlmeier

Proposal for a directive

Article 8 – paragraph 3

Text proposed by the Commission

3. A Member State may extradite an applicant to a third country pursuant to paragraph 2 only where the competent authorities are satisfied that an extradition decision will not result in direct or indirect refoulement in violation of international obligations of the Member State.

Amendment

deleted

Or. de

Justification

Under international law the Member States are obliged to comply with the non-refoulement

rule. This paragraph contains no added value and should not be included in the Directive, in order to keep the text concise.

Amendment 107

Kyriacos Triantaphyllides, Cornelis de Jong, Rui Tavares, Cornelia Ernst, Marie-Christine Vergiat

Proposal for a directive

Article 8 – paragraph 3

Text proposed by the Commission

3. A Member State may extradite an applicant to a third country pursuant to paragraph 2 only where the competent authorities ***are satisfied*** that an extradition decision will not result in direct or indirect refoulement in violation of international obligations of the Member State.

Amendment

3. A Member State may extradite an applicant to a third country pursuant to paragraph 2 only where the competent authorities ***have established through the assessment of the United Nations High Commissioner for Refugees and the European Asylum Support Office*** that an extradition decision will not result in direct or indirect refoulement in violation of international obligations of the Member State ***or expose the applicant to inhuman or degrading treatment upon arrival in the third country.***

Or. en

Justification

Diplomatic assurances have proved insufficient in ensuring the situation on the ground is secure for the applicant. The involvement of the UNHCR and EASO in this process would remedy this situation.

Amendment 108

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 8 – paragraph 3

Text proposed by the Commission

3. A Member State may extradite an applicant to a third country pursuant to paragraph 2 only where the **competent** authorities are **satisfied** that an extradition decision will not result in direct or indirect refoulement in violation of international obligations of the Member State.

Amendment

3. A Member State may extradite an applicant to a third country pursuant to paragraph 2 only where the **determining** authorities are **certain** that an extradition decision will not result in direct or indirect refoulement in violation of international obligations of the Member State.

Or. en

Amendment 109
Sophia in 't Veld

Proposal for a directive
Article 8 – paragraph 3

Text proposed by the Commission

3. A Member State may extradite an applicant to a third country pursuant to paragraph 2 only where **the competent authorities are satisfied that** an extradition decision will not result in direct or indirect refoulement in violation of international obligations of the Member State.

Amendment

3. A Member State may extradite an applicant to a third country pursuant to paragraph 2 only where an extradition decision will not result in direct or indirect refoulement in violation of international obligations of the Member State.

Or. en

Amendment 110
Monika Hohlmeier

Proposal for a directive
Article 9 – paragraph 3 – point a

Text proposed by the Commission

(a) applications are examined and decisions are taken individually, objectively **and** impartially;

Amendment

(a) applications are examined and decisions are taken individually, objectively, impartially **and taking into account the ability of individual applicants to exercise the rights and obligations laid down in this Directive;**

Justification

Applicants with special needs (cf. Article 20 of the Commission proposal) do not form a clearly-definable group. Since the authorities must in any case take into account acts of persecution, including mental, physical and sexual violence, they should also be obliged to take into account the ability of individual applicants to exercise their rights and obligations.

Amendment 111

Kyriacos Triantaphyllides, Cornelis de Jong, Rui Tavares, Cornelia Ernst, Marie-Christine Vergiat

Proposal for a directive

Article 9 – paragraph 3 – point b

Text proposed by the Commission

(b) precise and up-to-date information is obtained from various sources, such as the United Nations High Commissioner for Refugees (UNHCR) **and** the European Asylum Support Office, as to the general situation prevailing in the countries of origin of applicants and, where necessary, in countries through which they have transited, and that such information is made available to the personnel responsible for examining applications and taking decisions and, where the determining authority takes it into consideration for the purpose of taking a decision, to the applicant and his/her legal adviser;

Amendment

(b) precise and up-to-date information is obtained from various sources, such as the United Nations High Commissioner for Refugees (UNHCR), the European Asylum Support Office **and international human rights organisations**, as to the general situation prevailing in the countries of origin of applicants and, where necessary, in countries through which they have transited, and that such information is made available to the personnel responsible for examining applications and taking decisions and, where the determining authority takes it into consideration for the purpose of taking a decision, to the applicant and his/her legal adviser;

Amendment 112

Kyriacos Triantaphyllides, Cornelis de Jong, Rui Tavares, Marie-Christine Vergiat, Cornelia Ernst

Proposal for a directive

Article 9 – paragraph 3 – point c

Text proposed by the Commission

(c) the personnel examining applications and taking decisions have the knowledge with respect to relevant standards applicable in the field of asylum and refugee law;

Amendment

(c) the personnel examining applications and taking decisions have the knowledge with respect to relevant standards applicable in the field of asylum and refugee law *as well as human rights law and have completed the initial and follow-up training programme referred to in Article 4(1)*;

Or. en

Amendment 113

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 9 – paragraph 3 – point d

Text proposed by the Commission

(d) the personnel examining applications and taking decisions are instructed and have the possibility to seek advice, whenever necessary, from experts on particular issues, such as medical, cultural, child or *gender* issues.

Amendment

(d) the personnel examining applications and taking decisions are instructed and have the possibility to seek advice, whenever necessary, from experts on particular issues, such as medical, cultural, child, *gender* or *sexual orientation* issues.

Or. en

Amendment 114

Alfredo Pallone, Clemente Mastella, Salvatore Iacolino

Proposal for a directive

Article 9 – paragraph 3 – point d

Text proposed by the Commission

(d) the personnel examining applications and taking decisions are instructed and have the possibility to seek advice, whenever necessary, from experts on particular issues, such as medical, cultural,

Amendment

(d) the personnel examining applications and taking decisions are instructed and have the possibility to seek advice, whenever necessary, from experts on particular issues, such as medical, cultural,

child or *gender* issues.

child, *religious* or *sex* issues.

Or. it

Justification

Considering the role of the religious element in the context of the Directive, it is desirable to include mention of it here. As for the reference to the term 'gender', it seems legally incorrect, inter alia in relation to the formulation of the Treaties, which always refer to 'sex', never to 'gender'. Moreover, the concept of 'gender' is of a 'moral' character and cannot be regarded as commonly accepted.

Amendment 115

Kyriacos Triantaphyllides, Cornelis de Jong, Rui Tavares, Cornelia Ernst, Marie-Christine Vergiat

Proposal for a directive

Article 10 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. Member States shall also ensure that, where an application is rejected with regard to refugee status and/or subsidiary protection status, the reasons in fact and in law are stated in the decision and information on how to challenge a negative decision is given in writing.

Amendment

2. Member States shall also ensure that, where an application is rejected **or granted** with regard to refugee status and/or subsidiary protection status, the reasons in fact and in law are stated in the decision and information on how to challenge a negative decision is given in writing **at the time of issuing the decision**.

Or. en

Justification

Adding this reference will ensure the applicant will receive the information swiftly therefore enabling him or her to comply with any time requirements for further administrative action.

Amendment 116

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 10 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. Member States shall also ensure that, where an application is rejected with regard to refugee status and/or subsidiary protection status, the reasons in fact and in law are stated in the decision and information on how to challenge a negative decision is given in writing.

Amendment

2. Member States shall also ensure that, where an application is rejected with regard to refugee status and/or subsidiary protection status, the reasons in fact and in law are stated in the decision and information on how to challenge a negative decision is given in writing ***and signed upon receipt by the recipient.***

Or. en

Amendment 117
Sophia in 't Veld

Proposal for a directive
Article 10 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. Member States shall also ensure that, where an application is rejected with regard to refugee status and/or subsidiary protection status, the reasons in fact and in law are stated in the decision and information on how to challenge a negative decision is given in writing.

Amendment

2. Member States shall also ensure that, where an application is rejected with regard to refugee status and/or subsidiary protection status, the reasons in fact and in law are ***clearly*** stated in the decision and information on how to challenge a negative decision is given in writing ***at the time of issuing the decision.***

Or. en

Amendment 118
Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 10 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Member States need not provide information on how to challenge a negative decision in writing in conjunction with a decision where the

Amendment

deleted

applicant has been provided with this information at an earlier stage either in writing or by electronic means accessible to the applicant.

Or. en

Amendment 119
Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 10 – paragraph 4

Text proposed by the Commission

4. Paragraph 3 shall not apply to cases where disclosure of particular circumstances of a person to members of his/her family can jeopardize the interests of that person, including cases involving gender and/or age based persecution. In such cases, a separate decision shall be issued to the person concerned.

Amendment

4. Paragraph 3 shall not apply to cases where disclosure of particular circumstances of a person to members of his/her family can jeopardize the interests of that person, including cases involving gender, **gender identity, sexual orientation** and/or age based persecution. In such cases, a separate decision shall be issued to the person concerned.

Or. en

Amendment 120
Sophia in 't Veld

Proposal for a directive
Article 10 – paragraph 4

Text proposed by the Commission

4. Paragraph 3 shall not apply to cases where disclosure of particular circumstances of a person to members of his/her family can jeopardize the interests of that person, including cases involving gender and/or age based persecution. In such cases, a separate decision shall be issued to the person concerned.

Amendment

4. Paragraph 3 shall not apply to cases where disclosure of particular circumstances of a person to members of his/her family can jeopardize the interests of that person, including cases involving gender, **sexual orientation, gender identity**, and/or age based persecution. In such cases, a separate decision shall be issued to the person concerned.

Amendment 121

Alfredo Pallone, Clemente Mastella, Salvatore Iacolino

Proposal for a directive

Article 10 – paragraph 4

Text proposed by the Commission

4. Paragraph 3 shall not apply to cases where disclosure of particular circumstances of a person to members of his/her family can jeopardize the interests of that person, including cases involving **gender** and/or age based persecution. In such cases, a separate decision shall be issued to the person concerned.

Amendment

4. Paragraph 3 shall not apply to cases where disclosure of particular circumstances of a person to members of his/her family can jeopardize the interests of that person, including cases involving **sex** and/or age based persecution. In such cases, a separate decision shall be issued to the person concerned.

Or. it

Justification

The reference to the term 'gender' seems legally incorrect, inter alia in relation to the formulation of the Treaties, which always refer to 'sex', never to 'gender'. Moreover, the concept of 'gender' is of a 'moral' character and cannot be regarded as commonly accepted.

Amendment 122

Mario Borghezio

Proposal for a directive

Article 11 – paragraph 1 – point a

Text proposed by the Commission

(a) they shall be informed in a language which they **may reasonably be supposed to** understand of the procedure to be followed and of their rights and obligations during the procedure and the possible consequences of not complying with their obligations and not cooperating with the authorities. They shall be informed of the time-frame, as well as the means at their disposal for fulfilling the obligation to

Amendment

(a) they shall be informed in a language which they understand of the procedure to be followed and of their rights and obligations during the procedure and the possible consequences of not complying with their obligations and not cooperating with the authorities. They shall be informed of the time-frame, as well as the means at their disposal for fulfilling the obligation to submit the elements as

submit the elements as referred to in Article 4 of Directive [...]/../EC] [the Qualification Directive]. This information shall be given in time to enable them to exercise the rights guaranteed in this Directive and to comply with the obligations described in Article 12;

referred to in Article 4 of Directive [...]/../EC] [the Qualification Directive]. This information shall be given in time to enable them to exercise the rights guaranteed in this Directive and to comply with the obligations described in Article 12;

Or. it

Amendment 123

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 11 – paragraph 1 – point a

Text proposed by the Commission

(a) they shall be informed in a language which they **may reasonably be supposed to** understand of the procedure to be followed and of their rights and obligations during the procedure and the possible consequences of not complying with their obligations and not cooperating with the authorities. They shall be informed of the time-frame, as well as the means at their disposal for fulfilling the obligation to submit the elements as referred to in Article 4 of Directive [...]/../EC] [the Qualification Directive]. This information shall be given in **time** to enable them to exercise the rights guaranteed in this Directive and to comply with the obligations described in Article 12;

Amendment

(a) they shall be informed in a language which they understand of the procedure to be followed and of their rights and obligations during the procedure and the possible consequences of not complying with their obligations and not cooperating with the authorities. They shall be informed of the time-frame, as well as the means at their disposal for fulfilling the obligation to submit the elements as referred to in Article 4 of Directive [...]/../EC] [the Qualification Directive]. This information shall be given **sufficiently in advance in order** to enable them to exercise the rights guaranteed in this Directive and to comply with the obligations described in Article 12;

Or. en

Amendment 124

Mario Borghezio

Proposal for a directive

Article 11 – paragraph 1 – point b

Text proposed by the Commission

(b) they shall receive the services of an interpreter for submitting their case to the competent authorities whenever necessary. Member States shall consider it necessary to give these services **at least** when the determining authority calls upon the applicant to be interviewed as referred to in Articles 13, 14, 15, 16 and 30 and appropriate communication cannot be ensured without such services. In this case and in other cases where the competent authorities call upon the applicant, these services shall be paid for out of public funds;

Amendment

(b) they shall receive the services of an interpreter for submitting their case to the competent authorities whenever necessary. Member States shall consider it necessary to give these services **only** when the determining authority calls upon the applicant to be interviewed as referred to in Articles 13, 14, 15, 16 and 30 and appropriate communication cannot be ensured without such services. In this case and in other cases where the competent authorities call upon the applicant, these services shall be paid for out of public funds **if the applicant cannot pay for them**;

Or. it

Amendment 125

Daniël van der Stoep

Proposal for a directive

Article 11 – paragraph 1 – point b

Text proposed by the Commission

(b) they shall receive the services of an interpreter for submitting their case to the competent authorities whenever necessary. Member States shall consider it necessary to give these services at least when the determining authority calls upon the applicant to be interviewed as referred to in Articles 13, 14, 15, 16 and 30 and appropriate communication cannot be ensured without such services. In this case and in other cases where the competent authorities call upon the applicant, these services shall be paid for **out of public funds**;

Amendment

(b) they shall receive the services of an interpreter for submitting their case to the competent authorities whenever necessary. Member States shall consider it necessary to give these services at least when the determining authority calls upon the applicant to be interviewed as referred to in Articles 13, 14, 15, 16 and 30 and appropriate communication cannot be ensured without such services. In this case and in other cases where the competent authorities call upon the applicant, these services shall be paid for **primarily by the applicant**;

Or. nl

Amendment 126
Mario Borghezio

Proposal for a directive
Article 11 – paragraph 1 – point e

Text proposed by the Commission

(e) they shall be informed of the result of the decision by the determining authority in a language that they ***may reasonably be supposed to*** understand when they are not assisted or represented by a legal adviser or other counsellor. The information provided shall include information on how to challenge a negative decision in accordance with the provisions of Article 10(2).

Amendment

(e) they shall be informed of the result of the decision by the determining authority in a language that they understand when they are not assisted or represented by a legal adviser or other counsellor. The information provided shall include information on how to challenge a negative decision in accordance with the provisions of Article 10(2).

Or. it

Amendment 127
Monika Hohlmeier, Simon Busuttil

Proposal for a directive
Article 12 – paragraph 1

Text proposed by the Commission

1. Applicants for international protection shall ***cooperate with the competent authorities with a view to establishing*** their identity and other elements referred to in Article 4(2) of Directive [...]/EC [the Qualification Directive]. Member States may impose upon applicants other obligations to cooperate with the competent authorities insofar as these obligations are necessary for the processing of the application.

Amendment

1. Applicants for international protection shall ***be required to assist in clarifying the situation and to reveal*** their identity, ***nationality*** and other elements referred to in Article 4(2) of Directive [...]/EC [the Qualification Directive] ***to the competent authorities. If they are not in possession of a valid passport or a document in lieu of a passport, applicants shall be required to cooperate in obtaining an identity document. So long as applicants are permitted to remain in the Member State under international protection during consideration of the application, they shall not be required to enter into contact with authorities of their country of origin if there is reason to fear persecution by the State.*** Member States may impose upon

applicants other obligations to cooperate with the competent authorities insofar as these obligations are necessary for the processing of the application.

Or. de

Amendment 128
Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 12 – paragraph 1

Text proposed by the Commission

1. Applicants for international protection shall cooperate with the competent authorities with a view to establishing their identity and other elements referred to in Article 4(2) of Directive [...]/EC [the Qualification Directive]. Member States may impose upon applicants other obligations to cooperate with the competent authorities insofar as these obligations are necessary for the processing of the application.

Amendment

1. Applicants for international protection shall cooperate, **to the extent of their physical and psychological capacities**, with the competent authorities with a view to establishing their identity and other elements referred to in Article 4(2) of Directive [...]/EC [the Qualification Directive]. Member States may impose upon applicants other obligations to cooperate with the competent authorities insofar as these obligations are necessary for the processing of the application.

Or. en

Amendment 129
Mario Borghesio

Proposal for a directive
Article 12 – paragraph 2 – point b

Text proposed by the Commission

(b) applicants have to hand over documents in their possession **relevant** to the examination of the application, **such as their passports**;

Amendment

(b) applicants have to hand over **all** documents in their possession **necessary** to the examination of the application;

Or. it

Amendment 130
Mario Borghezio

Proposal for a directive
Article 12 – paragraph 2 – point c

Text proposed by the Commission

(c) applicants are required to inform the competent authorities of their current place of residence or address and of any changes thereof as soon as possible. Member States **may** provide that the applicant shall have to accept any communication at the most recent place of residence or address which he/she indicated accordingly;

Amendment

(c) applicants are required to inform the competent authorities of their current place of residence or address and of any changes thereof as soon as possible. Member States **shall** provide that the applicant shall have to accept any communication at the most recent place of residence or address which he/she indicated accordingly;

Or. it

Amendment 131
Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 12 – paragraph 2 – point c

Text proposed by the Commission

(c) applicants are required to inform the competent authorities of their current place of residence or address and of any changes thereof as soon as possible. Member States may provide that the applicant shall have to accept any communication at the most recent place of residence or address which he/she indicated accordingly;

Amendment

(c) applicants are required to inform the competent authorities of their current place of residence or address and of any changes thereof as soon as possible. Member States may provide that the applicant shall have to accept any communication at the most recent place of residence or address which he/she indicated accordingly; ***the address of a civil society organisation may be used as a registration address;***

Or. en

Amendment 132

Kyriacos Triantaphyllides, Cornelis de Jong, Rui Tavares, Cornelia Ernst, Marie-Christine Vergiat

Proposal for a directive

Article 12 – paragraph 2 – point d

Text proposed by the Commission

(d) the competent authorities may search the applicant and the items he/she carries with him/her, provided the search is carried out by a person of the same sex;

Amendment

(d) the competent authorities may search the applicant and the items he/she carries with him/her, provided the search is carried out by a person of the same sex ***who is age- and culture-sensitive;***

Or. en

Justification

This reference is only added to ensure a consistent approach throughout the directive with regard to the humane treatment of applicants.

Amendment 133

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 12 – paragraph 2 – point d

Text proposed by the Commission

(d) the competent authorities may search the applicant and the items he/she carries with him/her, provided the search is carried out by a person of the same sex;

Amendment

(d) the competent authorities may search the applicant and the items he/she carries with him/her, provided the search is carried out by a person of the same sex ***and fully respects the principle of human dignity and physical and mental integrity;***

Or. en

Amendment 134

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 13 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. Before a decision is taken by the determining authority, the applicant shall be given the opportunity of a personal interview on his/her application for international protection with a person competent under national law to conduct such an interview. Interviews on the substance of an application for international protection shall always be conducted by the personnel of the determining authority.

Amendment

1. Before a decision is taken by the determining authority, the applicant shall be given the opportunity of a personal interview on his/her application for international protection ***in a language which he/she understands*** with a person competent under national law to conduct such an interview. Interviews on the substance of an application for international protection shall always be conducted by the personnel of the determining authority.

Or. en

Amendment 135
Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 13 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

(b) the ***competent*** authority is of the opinion that the applicant is unfit or unable to be interviewed owing to enduring circumstances beyond his/her control. When in doubt, the ***competent*** authority shall consult a medical expert to establish whether the condition is temporary or permanent.

Amendment

(b) the ***determining*** authority is of the opinion that the applicant is unfit or unable to be interviewed owing to enduring circumstances beyond his/her control. When in doubt, the ***determining*** authority shall consult a medical expert to establish whether the condition is temporary or permanent.

Or. en

Amendment 136
Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 13 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Where the **Member State** does not provide the applicant with the opportunity for a personal interview pursuant to point (b), or where applicable, to the dependant, **reasonable efforts** shall **be made to** allow the applicant or the dependant to submit further information.

Amendment

Where the **determining authority** does not provide the applicant with the opportunity for a personal interview pursuant to point (b), or where applicable, to the dependant, **the determining authority** shall allow the applicant or the dependant to **reschedule the personal interview and to** submit further information.

Or. en

Amendment 137

Hélène Flautre on behalf of the Verts/ALE Group

**Proposal for a directive
Article 13 – paragraph 3**

Text proposed by the Commission

3. The absence of a personal interview in accordance with this Article shall not prevent the determining authority from taking a decision on an application for international protection .

Amendment

deleted

Or. en

Amendment 138

Hélène Flautre on behalf of the Verts/ALE Group

**Proposal for a directive
Article 14 – paragraph 3 – point a**

Text proposed by the Commission

(a) ensure that the person who conducts the interview is competent to take account of the personal **or** general circumstances surrounding the application, including the applicant's cultural origin, gender, or vulnerability;

Amendment

(a) ensure that the person who conducts the interview is **qualified, trained and** competent to take account of the personal **and** general circumstances surrounding the application, including the applicant's cultural origin, gender, **sexual orientation**

or vulnerability;

Or. en

Amendment 139
Sophia in 't Veld

Proposal for a directive
Article 14 – paragraph 3 – point a

Text proposed by the Commission

(a) ensure that the person who conducts the interview is competent to take account of the personal or general circumstances surrounding the application, including the applicant's cultural origin, gender, or vulnerability;

Amendment

(a) ensure that the person who conducts the interview is competent to take account of the personal or general circumstances surrounding the application, including the applicant's cultural origin, gender, **sexual orientation, gender identity**, or vulnerability;

Or. en

Amendment 140
Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 14 – paragraph 3 – point b

Text proposed by the Commission

(b) **wherever possible**, provide for the interview with the applicant to be conducted by a person of the same sex if the applicant concerned so requests;

Amendment

(b) provide for the interview with the applicant to be conducted by a person of the same sex if the applicant concerned so requests;

Or. en

Amendment 141
Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 14 – paragraph 3 – point c

Text proposed by the Commission

(c) select a competent interpreter who is able to ensure appropriate communication between the applicant and the person who conducts the interview. The communication need not necessarily take place in the language preferred by the applicant if there is another language which he/she understands and in which he/she is able to communicate clearly. Wherever possible, Member States shall provide an interpreter of the same sex if the applicant so requests;

Amendment

(c) select a ***qualified, trained and*** competent interpreter who is able to ensure appropriate communication between the applicant and the person who conducts the interview. The communication need not necessarily take place in the language preferred by the applicant if there is another language which he/she understands and in which he/she is able to communicate clearly. Wherever possible, Member States shall provide an interpreter of the same sex if the applicant so requests;

Or. en

Amendment 142

Daniël van der Stoep

Proposal for a directive

Article 14 – paragraph 3 – point d

Text proposed by the Commission

(d) ensure that the person who conducts an interview on the substance of an application for international protection does not wear a uniform;

Amendment

deleted

Or. nl

Amendment 143

Anna Maria Corazza Bildt, Véronique Mathieu, Mariya Nedelcheva, Simon Busuttil

Proposal for a directive

Article 14 – paragraph 3 – point e

Text proposed by the Commission

e) ensure that interviews with minors are conducted in a child-friendly manner.

Amendment

e) ensure that interviews with minors are conducted in a child-friendly manner ***and by a person with the necessary knowledge of the special needs and rights of minors.***

Amendment 144
Monika Hohlmeier, Simon Busuttil

Proposal for a directive
Article 15 – introductory part

Text proposed by the Commission

When conducting a personal interview on the substance of an application for international protection, the determining authority shall ensure that the applicant has an **adequate** opportunity to present elements needed to substantiate his/her application for international protection in accordance with Article 4 (1) and (2) of Directive [...]/../EC] [the Qualification Directive]. To that end, Member States shall ensure that:

Amendment

When conducting a personal interview on the substance of an application for international protection, the determining authority shall ensure that the applicant has an opportunity to present elements needed to substantiate his/her application for international protection in accordance with Article 4 (1) and (2) of Directive [...]/../EC] [the Qualification Directive]. To that end, Member States shall ensure that:

Or. de

Justification

The formulation ‘adequate opportunity’ is legally unclear. A simpler formulation without the addition of ‘adequate’ is less open to misinterpretation, equally apt and therefore preferable.

Amendment 145
Monika Hohlmeier, Simon Busuttil

Proposal for a directive
Article 15 – point a

Text proposed by the Commission

(a) questions addressed to the applicant are relevant to the assessment of whether he/she is in need of international protection in accordance with Directive [...]/../EC] [the Qualification Directive];

Amendment

deleted

Or. de

Justification

It goes without saying that the questions put to applicants are also relevant to the procedure. However, in order to make the procedure efficient and ensure that it can normally be completed within six months, care should be taken not to create opportunities to prolong the procedure by making it possible to contest the list of questions.

Amendment 146 **Monika Hohlmeier**

Proposal for a directive **Article 15 – point b**

Text proposed by the Commission

(b) the applicant has an **adequate** opportunity to give an explanation regarding elements needed to substantiate the application which may be missing and/or any inconsistencies or contradictions in his/her statements.

Amendment

(b) the applicant has an opportunity to give an explanation regarding elements needed to substantiate the application which may be missing and/or any inconsistencies or contradictions in his/her statements.

Or. de

Justification

The formulation ‘adequate opportunity’ is legally unclear. A simpler formulation without the addition of ‘adequate’ is less open to misinterpretation, equally apt and therefore preferable.

Amendment 147 **Hélène Flautre on behalf of the Verts/ALE Group**

Proposal for a directive **Article 16 – paragraph 5**

Text proposed by the Commission

5. Member States shall ensure that applicants have **timely** access to the transcript and, where applicable, the report of the personal interview before the determining authority takes a decision.

Amendment

5. Member States shall ensure that applicants have **immediate** access to the transcript and, where applicable, the report of the personal interview before the determining authority takes a decision.

Amendment 148
Monika Hohlmeier, Simon Busuttil

Proposal for a directive
Article 17 – paragraph 1

Text proposed by the Commission

1. Member States shall ***allow applicants, upon request, to have*** a medical examination ***carried out*** in order to support statements in relation to past persecution or serious harm. To that end, Member States shall grant applicants a reasonable period to submit a medical certificate to the determining authority.

Amendment

1. Member States shall ***ensure, subject to the applicant's consent, that*** a medical examination ***is ordered*** in order to support statements in relation to ***post-traumatic stress disorder***, past persecution or serious harm, ***in cases where the determining authority has reasonable grounds to suppose this to be appropriate and the capacity to be heard or to make complete and coherent statements is accordingly limited***. To that end, Member States shall grant applicants a reasonable period to submit a medical certificate to the determining authority.

Or. de

Justification

In view of the regulatory purpose of the Qualification Directive, where special needs are taken into account, this must be based on the limited capacity to pursue the procedure effectively. There must be specific indications that applicants have a limited capacity to pursue their procedure adequately. Moreover, it is helpful to combine Article 17(1) and (2) in a single paragraph.

Amendment 149
Monika Hohlmeier, Simon Busuttil

Proposal for a directive
Article 17 – paragraph 2

Text proposed by the Commission

2. Without prejudice to paragraph 1, in cases where there are reasonable grounds

Amendment

deleted

to consider that the applicant suffers from post-traumatic stress disorder, the determining authority, subject to the consent of the applicant, shall ensure that a medical examination is carried out.

Or. de

Justification

It is helpful to combine Article 17(1) and (2) in a single paragraph, rendering Paragraph 2 superfluous.

Amendment 150
Monika Hohlmeier

Proposal for a directive
Article 17 – paragraph 3

Text proposed by the Commission

3. Member States shall provide for relevant arrangements in order to ensure that impartial and qualified medical expertise is made available for the purpose of a medical examination referred to in paragraph 2.

Amendment

3. Member States shall provide for relevant arrangements in order to ensure that impartial and qualified medical expertise – *for example, medical officers or medical specialists* – is made available for the purpose of a medical examination referred to in paragraph 2.

Or. de

Amendment 151
Anna Maria Corazza Bildt, Mariya Nedelcheva, Simon Busuttil, Véronique Mathieu

Proposal for a directive
Article 17 – paragraph 3

Text proposed by the Commission

3. Member States shall provide for relevant arrangements in order to ensure that impartial and qualified medical expertise is made available for the purpose of a medical examination referred to in

Amendment

3. Member States shall provide for relevant arrangements in order to ensure that impartial and qualified medical expertise is made available for the purpose of a medical examination referred to in

paragraph 2.

paragraph 2 *and that the less invasive medical examination is selected when the applicant is a minor.*

Or. en

Amendment 152
Simon Busuttil, Georgios Papanikolaou

Proposal for a directive
Article 18 – paragraph 1

Text proposed by the Commission

1. Applicants for international protection shall be given the opportunity to consult in an effective manner a legal adviser or other counsellor, admitted or permitted as such under national law, on matters relating to their applications for international protection, *at all stages of the procedure, including following a negative decision.*

Amendment

1. Applicants for international protection shall be given the opportunity to consult in an effective manner a legal adviser or other counsellor, admitted or permitted as such under national law, on matters relating to their applications for international protection.

Or. en

Amendment 153
Ernst Strasser

Proposal for a directive
Article 18 – paragraph 1

Text proposed by the Commission

1. Applicants for international protection shall be given the opportunity to consult in an effective manner a legal adviser or other counsellor, admitted or permitted as such under national law, on matters relating to their applications for international protection, *at all stages of the procedure, including following a negative decision.*

Amendment

1. Applicants for international protection shall be given the opportunity to consult in an effective manner a legal adviser or other counsellor, admitted or permitted as such under national law, on matters relating to their applications for international protection, *throughout procedures in accordance with Chapter III and V.*

Or. en

Amendment 154
Monika Hohlmeier

Proposal for a directive
Article 18 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that **free** legal assistance and/or representation be granted on request, **subject to the provisions of paragraph 3. To that end, Member States shall:**

Amendment

2. Member States shall ensure that **the requisite** legal assistance and/or representation be granted on request **in accordance with the relevant provisions of national law or provisions concerning legal aid.**

Or. de

Justification

The right to legal aid and legal services has not been communitised. There is therefore no justification for giving asylum-seekers preferential treatment in the asylum procedure before the administrative authorities and the courts in comparison with nationals or aliens in other procedures governed by national law.

Amendment 155
Mario Borghezio

Proposal for a directive
Article 18 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that free legal assistance and/or representation be granted on request, subject to the provisions of paragraph 3. To that end, Member States shall:

Amendment

2. Member States shall ensure that free legal assistance and/or representation be granted on request, subject to the provisions of paragraph 3, **if the applicant cannot pay for it.** To that end, Member States shall:

Or. it

Amendment 156

Kyriacos Triantaphyllides, Cornelis de Jong, Rui Tavares, Cornelia Ernst, Marie-Christine Vergiat

Proposal for a directive

Article 18 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that free legal assistance *and/or* representation be granted on request, subject to the provisions of paragraph 3. To that end, Member States shall:

Amendment

2. Member States shall ensure that free legal assistance *and* representation be granted on request, subject to the provisions of paragraph 3. To that end, Member States shall:

Or. en

Amendment 157

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 18 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that free legal assistance and/or representation be granted on request, *subject to the provisions of paragraph 3*. To that end, Member States shall:

Amendment

2. Member States shall ensure that free legal assistance and/or representation *in accordance with paragraph 1* be granted on request. To that end, Member States shall:

Or. en

Amendment 158

Simon Busuttil, Georgios Papanikolaou

Proposal for a directive

Article 18 – paragraph 2 – introductory part

Text proposed by the Commission

2. Member States shall ensure that free legal assistance and/or representation be granted on request, subject to the

Amendment

2. *In the event of a negative decision by a determining authority*, Member States shall ensure that free legal assistance

provisions of paragraph 3. To that end, Member States shall:

and/or representation be granted on request, subject to the provisions of paragraph 3. To that end, Member States shall:

Or. en

Amendment 159
Monika Hohlmeier, Ernst Strasser

Proposal for a directive
Article 18 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) provide for free legal assistance in procedures in accordance with Chapter III. This shall include, at least, the provision of information on the procedure to the applicant in the light of his/her particular circumstances and explanations of reasons in fact and in law in the case of a negative decision;

deleted

Or. de

Amendment 160
Simon Busuttil, Georgios Papanikolaou

Proposal for a directive
Article 18 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) provide for free legal assistance in procedures in accordance with Chapter III. This shall include, at least, the provision of information on the procedure to the applicant in the light of his/her particular circumstances and explanations of reasons in fact and in law in the case of a negative decision;

deleted

Or. en

Amendment 161
Nadja Hirsch

Proposal for a directive
Article 18 – paragraph 2 – point a

Text proposed by the Commission

(a) provide for free **legal assistance** in procedures in accordance with Chapter III. This shall include, at least, the provision of information on the procedure to the applicant in the light of his/her particular circumstances and explanations of reasons in fact and in law in the case of a negative decision;

Amendment

(a) provide for free **advice on procedural aspects and the legal situation** in procedures in accordance with Chapter III. This shall include, at least, the provision of information on the procedure to the applicant in the light of his/her particular circumstances, **preparation of the necessary procedural documents, including on the basis of a personal interview**, and explanations of reasons in fact and in law in the case of a negative decision. **This advice can be delivered by a non-governmental body or by qualified professionals.**

Or. de

Amendment 162
Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 18 – paragraph 2 – point a

Text proposed by the Commission

(a) provide for free legal assistance in procedures in accordance with Chapter III. This shall include, at least, the provision of information on the procedure to the applicant in the light of his/her particular circumstances and explanations of reasons in fact and in law in the case of a negative decision;

Amendment

(a) provide for free legal assistance in procedures in accordance with Chapter III. This shall include, at least, the provision of information on the procedure to the applicant in the light of his/her particular circumstances, **assistance in the preparation or gathering of supporting documents, representation at all stages of the procedure, including at the personal interview**, and explanations of reasons in fact and in law in the case of a negative decision;

Amendment 163
Monika Hohlmeier, Ernst Strasser

Proposal for a directive
Article 18 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) provide for free legal assistance or representation in procedures in accordance with Chapter V. This shall include, at least, the preparation of the required procedural documents and participation in the hearing before a court or tribunal of first instance on behalf of the applicant.

deleted

Amendment 164
Simon Busuttil, Georgios Papanikolaou

Proposal for a directive
Article 18 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) provide for free legal assistance or representation in procedures in accordance with Chapter V. This shall include, at least, the preparation of the required procedural documents and participation in the hearing before a court or tribunal of first instance on behalf of the applicant.

deleted

Amendment 165

Kyriacos Triantaphyllides, Cornelis de Jong, Rui Tavares, Cornelia Ernst, Marie-Christine Vergiat

Proposal for a directive

Article 18 – paragraph 2 – point b

Text proposed by the Commission

(b) provide for free legal assistance *or* representation in procedures in accordance with Chapter V. This shall include, at least, the preparation of the required procedural documents and participation in the hearing before a court or tribunal of first instance on behalf of the applicant.

Amendment

(b) provide for free legal assistance *and* representation in procedures in accordance with Chapter V. This shall include, at least, the preparation of the required procedural documents and participation in the hearing before a court or tribunal of first instance on behalf of the applicant.

Or. en

Amendment 166

Monika Hohlmeier

Proposal for a directive

Article 18 – paragraph 3 – subparagraph 1 – introductory part

Text proposed by the Commission

3. Member States may provide in their national legislation that free legal assistance and/or representation is granted:

Amendment

3. Member States may provide in their national legislation, *in particular*, that free legal assistance and/or representation is granted:

Or. de

Amendment 167

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 18 – paragraph 3 – subparagraph 1 – point a

Text proposed by the Commission

(a) only to those who lack sufficient resources; and/or

Amendment

deleted

Amendment 168

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 18 – paragraph 3 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) only to legal advisers or other counsellors specifically designated by national law to assist and/or represent applicants for international protection.

deleted

Amendment 169

Simon Busuttil, Georgios Papanikolaou

Proposal for a directive

Article 18 – paragraph 3 – subparagraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) only for procedures before a court or tribunal in accordance with Chapter V and not for any onward appeals or reviews provided for under national law, including a rehearing of an appeal following an onward appeal or review; and/or

Amendment 170

Monika Hohlmeier

Proposal for a directive

Article 18 – paragraph 3 – subparagraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) only if the appeal or review is likely to succeed.

Or. de

Justification

Unless the appeal or review is likely to succeed, there is a danger of unnecessary procedural delays and abuse.

Amendment 171

Simon Busuttil, Georgios Papanikolaou

Proposal for a directive

Article 18 – paragraph 3 – subparagraph 1 – point b b (new)

Text proposed by the Commission

Amendment

(bb) only if the appeal or review is likely to succeed.

Or. en

Amendment 172

Monika Hohlmeier

Proposal for a directive

Article 18 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

With respect to the procedures provided for in Chapter V, Member States may choose to only make free legal assistance and/or representation available to applicants insofar as such assistance is necessary to ensure their effective access to justice. Member States shall ensure that legal assistance and/or representation granted pursuant to ***this paragraph*** is not arbitrarily restricted.

Member States shall ensure that legal assistance and/or representation granted pursuant to ***point (d)*** is not arbitrarily restricted.

Amendment 173
Mario Borghezio

Proposal for a directive
Article 18 – paragraph 3 – subparagraph 2

Text proposed by the Commission

With respect to the procedures provided for in Chapter V, Member States may choose to only make free legal assistance and/or representation available to applicants insofar as such assistance is necessary to ensure their effective access to justice. ***Member States shall ensure that legal assistance and/or representation granted pursuant to this paragraph is not arbitrarily restricted.***

Amendment

With respect to the procedures provided for in Chapter V, Member States may choose to only make free legal assistance and/or representation available to applicants insofar as such assistance is necessary to ensure their effective access to justice ***after having verified that the applicants cannot pay for it.***

Or. it

Amendment 174
Ernst Strasser

Proposal for a directive
Article 18 – paragraph 3 – subparagraph 2

Text proposed by the Commission

With respect to the procedures provided for in Chapter V, Member States may choose to only make free legal assistance and/or representation available to applicants insofar as such assistance is necessary to ensure their effective access to justice. Member States shall ensure that legal assistance and/or representation granted pursuant to this paragraph is not arbitrarily restricted.

Amendment

Member States may choose to only make free legal assistance and/or representation available to applicants insofar as such assistance is necessary to ensure their effective access to justice. Member States shall ensure that legal assistance and/or representation granted pursuant to this paragraph is not arbitrarily restricted.

Or. en

Amendment 175
Nadja Hirsch

Proposal for a directive
Article 18 – paragraph 3 – subparagraph 2

Text proposed by the Commission

With respect to the procedures provided for in Chapter V, Member States may choose to only make free legal assistance and/or representation available to applicants insofar as such assistance is necessary to ensure their effective access to justice. Member States shall ensure that legal assistance and/or representation granted pursuant to this paragraph is not arbitrarily restricted.

Amendment

With respect to the procedures provided for in Chapter V, Member States may choose to only make free legal assistance and/or representation available to applicants insofar as such assistance is necessary to ensure their effective access to justice. Member States shall ensure that legal assistance and/or representation granted pursuant to this paragraph is not arbitrarily restricted, ***but on the other hand that it is granted only if there is a sufficient prospect of success.***

Or. de

Amendment 176

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 18 – paragraph 5

Text proposed by the Commission

5. Member States ***may*** allow non-governmental organisations to provide free legal assistance and/or representation to applicants for international protection in procedures provided for in Chapter III and/or Chapter V.

Amendment

5. Member States ***shall*** allow ***and facilitate*** the provision by non-governmental organisations of free legal assistance and/or representation to applicants for international protection in procedures provided for in Chapter III and Chapter V.

Or. en

Amendment 177

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 18 – paragraph 7

Text proposed by the Commission

Amendment

7. Member States may demand to be reimbursed wholly or partially for any expenses granted if and when the applicant's financial situation has improved considerably or if the decision to grant such benefits was taken on the basis of false information supplied by the applicant.

deleted

Or. en

Amendment 178

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 19 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that a legal adviser or other counsellor admitted or permitted as such under national law, and who assists or represents an applicant for international protection under the terms of national law, shall enjoy access to **the information in** the applicant's file upon which a decision is or will be made.

1. Member States shall ensure that a legal adviser or other counsellor admitted or permitted as such under national law, and who assists or represents an applicant for international protection under the terms of national law, shall enjoy **full and immediate** access to the applicant's file upon which a decision is or will be made.

Or. en

Amendment 179
Monika Hohlmeier

Proposal for a directive
Article 19 – paragraph 1 – subparagraph 2 – point a

Text proposed by the Commission

Amendment

(a) grant access to the information or

deleted

sources in question at least to a legal advisor or counsellor who has undergone a security check, insofar as the information is relevant to the examination of the application or taking a decision to withdraw international protection;

Or. de

Justification

Security checks on lawyers are not sufficient to safeguard security interests. In addition, the practicability of a security check is questionable.

Amendment 180

Nadja Hirsch

Proposal for a directive

Article 19 – paragraph 3

Text proposed by the Commission

3. Member States shall allow the applicant to bring to the personal interview a legal adviser or other counsellor admitted or permitted as such under national law.

Amendment

3. Member States shall allow the applicant to bring to the personal interview a legal adviser or other counsellor admitted or permitted as such under national law, **or a qualified expert.**

Or. de

Amendment 181

Monika Hohlmeier, Simon Busuttil

Proposal for a directive

Article 20 – paragraph 1

Text proposed by the Commission

1. Member States shall take appropriate measures to ensure that applicants **with special needs** are given the opportunity to present the elements of an application as completely as possible and with all available evidence. Where needed, they

Amendment

1. Member States shall take appropriate measures to ensure that applicants **who in the opinion of the determining authority have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence as described in**

shall be granted time extensions to enable them to submit evidence or take other necessary steps in the procedure.

Article 21 of Directive [...]/EC [laying down minimum standards for the reception of asylum seekers (the Reception Conditions Directive)] are given the opportunity **and support** to present the elements of an application as completely as possible and with all available evidence. Where needed, they shall be granted time extensions to enable them to submit evidence or take other necessary steps in the procedure.

Or. de

Justification

Article 20(1) and (2) can be combined in a single paragraph. It must be ensured that the people concerned are given the right opportunities and the necessary support.

Amendment 182

Monika Hohlmeier, Simon Busuttil

**Proposal for a directive
Article 20 – paragraph 2**

Text proposed by the Commission

Amendment

2. In cases where the determining authority consider that an applicant has been subjected to torture, rape or other serious forms of psychological, physical or sexual violence as described in Article 21 of Directive [...]/EC [laying down minimum standards for the reception of asylum seekers (the Reception Conditions Directive)], the applicant shall be granted sufficient time and relevant support to prepare for a personal interview on the substance of his/her application.

deleted

Or. de

Justification

Article 20(2) is covered by the addition to paragraph 1, and therefore now superfluous.

Amendment 183

Kyriacos Triantaphyllides, Cornelis de Jong, Rui Tavares, Cornelia Ernst, Marie-Christine Vergiat

Proposal for a directive

Article 20 – paragraph 2

Text proposed by the Commission

2. In cases where the determining authority consider that an applicant has been subjected to torture, rape or other serious forms of psychological, physical or sexual violence as described in Article 21 of Directive [.../.../EC] [laying down minimum standards for the reception of asylum seekers (the Reception Conditions Directive)], the applicant shall be granted sufficient time and relevant support to prepare for a personal interview on the substance of his/her application.

Amendment

2. In cases where the determining authority consider that an applicant has been subjected to torture, rape or other serious forms of psychological, physical or sexual violence as described in Article 21 of Directive [.../.../EC] [laying down minimum standards for the reception of asylum seekers (the Reception Conditions Directive)], the applicant shall be granted sufficient time and relevant support to prepare for a personal interview on the substance of his/her application. ***Special attention shall be given to those applicants who did not mention their sexual orientation immediately.***

Or. en

Amendment 184

Monika Hohlmeier, Simon Busuttil

Proposal for a directive

Article 20 – paragraph 3

Text proposed by the Commission

3. Article 27 (6) and (7) shall not apply to the applicants referred to in paragraph 2.

Amendment

deleted

Or. de

Justification

There is no justification for not applying to applicants with special needs the accelerated

procedure or the rules governing rejection of asylum applications as manifestly unfounded. An application for protection can only be rejected as manifestly unfounded after a thorough examination of the facts of the case. If after examination of all the facts it is clear that the application will not be successful, there is no reason for extending the procedure.

Amendment 185
Monika Hohlmeier

Proposal for a directive
Article 21 – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

(a) as soon as possible take measures to ensure that a representative represents and assists the unaccompanied minor with respect to the lodging and the examination of the application. The representative shall be impartial and have the necessary expertise in the field of childcare. This representative can also be the representative referred to in Directive [.../.../EC]¹⁷ [the Reception Conditions Directive];

Amendment

(a) as soon as possible take measures to ensure that a representative ***of the competent national body*** represents and assists the unaccompanied minor with respect to the lodging and the examination of the application. The representative shall be impartial and have the necessary expertise in the field of childcare. This representative can also be the representative referred to in Directive [.../.../EC]¹⁷ [the Reception Conditions Directive];

Or. de

Amendment 186

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 21 – paragraph 1 – subparagraph 1 – point a

Text proposed by the Commission

(a) ***as soon as possible*** take measures to ensure that a representative represents and assists the unaccompanied minor with respect to the lodging and the examination of the application. The representative shall be impartial and have the necessary

Amendment

(a) ***immediately*** take measures to ensure that a representative represents and assists the unaccompanied minor with respect to the lodging and the examination of the application. The representative shall be impartial and have the necessary expertise

expertise in the field of childcare. This representative can also be the representative referred to in Directive [.../.../EC]¹⁷ [the Reception Conditions Directive];

in the field of childcare. This representative can also be the representative referred to in Directive [.../.../EC]¹⁷ [the Reception Conditions Directive];

Or. en

Amendment 187

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 21 – paragraph 1 – subparagraph 1 – point b

Text proposed by the Commission

(b) ensure that the representative **is given the opportunity to inform** the unaccompanied minor about the meaning and possible consequences of the personal interview and, where appropriate, how to prepare himself/herself for the personal interview. Member States shall ensure that a representative and/or a legal advisor or other counsellor admitted as such under national law are present at that interview and have an opportunity to ask questions or make comments, within the framework set by the person who conducts the interview.

Amendment

(b) ensure that the representative **informs** the unaccompanied minor about the meaning and possible consequences of the personal interview and, where appropriate, how to prepare himself/herself for the personal interview. Member States shall ensure that a representative and/or a legal advisor or other counsellor admitted as such under national law are present at that interview and have an opportunity to ask questions or make comments, within the framework set by the person who conducts the interview.

Or. en

Amendment 188

Nadja Hirsch

Proposal for a directive

Article 21 – paragraph 1 – subparagraph 1 – point b

Text proposed by the Commission

(b) ensure that the representative is given the opportunity to inform the unaccompanied minor about the meaning and possible consequences of the personal

Amendment

(b) ensure that the representative is given the opportunity to inform the unaccompanied minor about the meaning and possible consequences of the personal

interview and, where appropriate, how to prepare himself/herself for the personal interview. Member States shall ensure that a representative and/or a legal advisor or other counsellor admitted as such under national law are present at that interview and have an opportunity to ask questions or make comments, within the framework set by the person who conducts the interview.

interview and, where appropriate, how to prepare himself/herself for the personal interview. Member States shall ensure that a representative and/or a legal advisor or other counsellor admitted as such under national law *or other qualified professional* are present at that interview and have an opportunity to ask questions or make comments, within the framework set by the person who conducts the interview.

Or. de

Amendment 189
Monika Hohlmeier

Proposal for a directive
Article 21 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States may refrain from appointing a representative where the unaccompanied minor:

deleted

(a) will in all likelihood reach the age of maturity before a decision at first instance is taken;

(b) is married or has been married.

Or. de

Justification

In view of the possibility of a forced marriage, a minor who is married should receive the same assistance from a representative as any other minor.

Amendment 190
Mario Borghezio

Proposal for a directive
Article 21 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) is married or has been married.

deleted

Or. it

Amendment 191

Anna Maria Corazza Bildt, Véronique Mathieu, Mariya Nedelcheva, Simon Busuttil

Proposal for a directive

Article 21 – paragraph 3 – point a

Text proposed by the Commission

Amendment

(a) If an unaccompanied minor has a personal interview on his/her application for international protection as referred to in Articles 13, 14 and 15 that interview is conducted by a person who has the necessary knowledge of the special needs of minors;

(a) If an unaccompanied minor has a personal interview on his/her application for international protection as referred to in Articles 13, 14 and 15 that interview is conducted by a person who has the necessary knowledge of the special needs ***and rights*** of minors;

Or. en

Amendment 192

Anna Maria Corazza Bildt, Mariya Nedelcheva, Simon Busuttil, Véronique Mathieu

Proposal for a directive

Article 21 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) an official with the necessary knowledge of the special needs of minors prepares the decision by the determining authority on the application of an unaccompanied minor.

(b) an official with the necessary knowledge of the special needs ***and rights*** of minors prepares the decision by the determining authority on the application of an unaccompanied minor.

Or. en

Amendment 193
Monika Hohlmeier

Proposal for a directive
Article 21 – paragraph 4

Text proposed by the Commission

4. Subject to the conditions set out in Article 18, unaccompanied minors shall be granted free legal assistance with respect to all procedures provided for in this Directive.

Amendment

4. Subject to the conditions set out in Article 18, unaccompanied minors shall be granted free legal assistance with respect to all procedures provided for in this Directive, ***in so far as this is necessary or possible in the light of personal circumstances.***

With respect to the procedures provided for in Chapter V, the Member States may provide for this to be limited to cases where the appeal or review is likely to succeed.

Or. de

Justification

Financial support for legal assistance should only be provided in cases where the unaccompanied minor does not have sufficient resources of his/her own. If an unaccompanied minor is in a position to pay for legal assistance privately, there is no justification for it to be financed by the state.

Amendment 194
Kyriacos Triantaphyllides, Cornelis de Jong, Rui Tavares, Cornelia Ernst, Marie-Christine Vergiat

Proposal for a directive
Article 21 – paragraph 4

Text proposed by the Commission

4. Subject to the conditions set out in Article 18, unaccompanied minors shall be granted free legal assistance with respect to all procedures provided for in this Directive.

Amendment

4. Subject to the conditions set out in Article 18, unaccompanied minors shall be granted free legal assistance ***and representation*** with respect to all procedures provided for in this Directive.

Amendment 195

Nadja Hirsch

Proposal for a directive

Article 21 – paragraph 4

Text proposed by the Commission

4. Subject to the conditions set out in Article 18, unaccompanied minors shall be granted free legal *assistance* with respect to all procedures provided for in this Directive.

Amendment

4. Subject to the conditions set out in Article 18, unaccompanied minors ***and their appointed representative shall, with respect to all procedures provided for in this Directive, be granted free legal advice regarding the phases and the legal situation in the procedure. This advice can be delivered by a non-governmental body or by qualified professionals.***

Amendment 196

Kyriacos Triantaphyllides, Rui Tavares, Cornelia Ernst, Marie-Christine Vergiat

Proposal for a directive

Article 21 – paragraph 5 – subparagraph 1

Text proposed by the Commission

5. Member States may use medical examinations to determine the age of unaccompanied minors within the framework of the examination of an application for international protection , where, following his/her general statements or other relevant evidence, Member States still have doubts concerning his/her age.

Amendment

5. Member States may use medical examinations to determine the age of unaccompanied minors within the framework of the examination of an application for international protection, where, following his/her general statements or other relevant evidence, Member States still have doubts concerning his/her age. ***If those doubts persist after the medical examination, any decision shall always be for the benefit of the unaccompanied minor.***

Amendment 197

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 21 – paragraph 5 – subparagraph 1

Text proposed by the Commission

5. Member States may use medical examinations to determine the age of unaccompanied minors within the framework of the examination of an application for international protection , where, following his/her general statements or other relevant evidence, Member States still have doubts concerning his/her age.

Amendment

5. Member States may use medical examinations to determine the age of unaccompanied minors within the framework of the examination of an application for international protection , where, following his/her general statements or other relevant evidence, Member States still have doubts concerning his/her age. ***In case of doubt; any decision shall be in favour of the minor.***

Or. en

Amendment 198

Monika Hohlmeier

Proposal for a directive

Article 21 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Any medical examination shall be performed in full respect of the individual's dignity, selecting the less invasive exams.

Amendment

(Does not affect the English version)

Or. de

Justification

Linguistic adaptation of the German text to the English version ('less invasive') [This does not affect the English version].

Amendment 199

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 21 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Any medical examination shall be performed in full respect of the individual's dignity, selecting the less invasive exams.

Amendment

Any medical examination shall be performed in full respect of the individual's dignity, selecting the **most reliable and** less invasive examinations.

Or. en

Amendment 200

Anna Maria Corazza Bildt, Mariya Nedelcheva, Simon Busuttil, Véronique Mathieu

Proposal for a directive

Article 21 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Any medical examination shall be performed in full respect of the individual's dignity, selecting the less invasive exams.

Amendment

Any medical examination shall be performed in full respect of the individual's dignity, selecting the less invasive exams **and carried out by qualified and impartial medical experts.**

Or. en

Amendment 201

Monika Hohlmeier, Simon Busuttil

Proposal for a directive

Article 21 – paragraph 5 – subparagraph 3 – point a

Text proposed by the Commission

(a) unaccompanied minors are informed prior to the examination of their application for international protection , and in a language which they understand, of the possibility that their age may be

Amendment

(a) unaccompanied minors are informed prior to the examination of their application for international protection, and in a language which they **may reasonably be supposed to** understand, of the

determined by medical examination. This shall include information on the method of examination and the possible consequences of the result of the medical examination for the examination of the application for international protection, as well as the consequences of refusal on the part of the unaccompanied minor to undergo the medical examination;

possibility that their age may be determined by medical examination. This shall include information on the method of examination and the possible consequences of the result of the medical examination for the examination of the application for international protection, as well as the consequences of refusal on the part of the unaccompanied minor to undergo the medical examination;

Or. de

Justification

For practical reasons and in view of the difficulty of proving language proficiency, the wording of the current Directive is preferable.

Amendment 202
Monika Hohlmeier

Proposal for a directive
Article 21 – paragraph 6

Text proposed by the Commission

Amendment

6. Article 27 (6) and (7), Article 29 (2) (c), Article 32, and Article 37 shall not apply to unaccompanied minors. *deleted*

Or. de

Justification

There is no justification for not applying generally to unaccompanied minors the accelerated procedure or the provisions governing rejection of asylum applications as manifestly unfounded, the safe third country rules and specific border procedures. Uniform application of privileged treatment harbours considerable potential for abuse.

Amendment 203

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 22 a (new)

Text proposed by the Commission

Amendment

Article 22a

Detention of minors

The detention of minors shall be strictly prohibited in all circumstances.

Or. en

Amendment 204

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 23 – paragraph 1

Text proposed by the Commission

Amendment

1. Insofar as Member States provide for the possibility of explicit withdrawal of the application under national law, when an applicant explicitly withdraws his/her application for international protection, Member States shall ensure that the determining authority takes a decision to either discontinue the examination or reject the application.

1. Insofar as Member States provide for the possibility of explicit withdrawal of the application under national law, when an applicant explicitly withdraws his/her application for international protection, Member States shall ensure that the determining authority takes a decision to either discontinue the examination or reject the application, ***and explain to the applicant the consequences of the withdrawal.***

Or. en

Amendment 205
Monika Hohlmeier

Proposal for a directive
Article 24 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

1. When there is reasonable cause to

1. When there is reasonable cause to

consider that an applicant for international protection has implicitly withdrawn or abandoned his/her application for international protection, Member States shall ensure that the determining authority takes a decision to discontinue the examination.

consider that an applicant for asylum has implicitly withdrawn or abandoned his/her application for asylum, Member States shall ensure that the determining authority takes a decision to *either* discontinue the examination *or reject the application on the basis that the applicant has not established an entitlement to refugee status in accordance with Directive 2004/83/EC*.

Or. de

Justification

The determining authority must have the option of rejecting the application for asylum. If this possibility does not exist, asylum procedures can no longer be concluded since they can continue to run without a time limit despite in fact being abandoned and despite a lack of need for protection. This is not conducive either to efficient processing by the authorities or to the protection of genuine victims of persecution. If the authorities cannot terminate a procedure or turn down an application, absconding will be rewarded, and this should not be allowed.

Amendment 206

Simon Busuttil, Georgios Papanikolaou

Proposal for a directive

Article 24 – paragraph 1 – subparagraph 1

Text proposed by the Commission

1. When there is reasonable cause to consider that an applicant for international protection has implicitly withdrawn or abandoned his/her application for international protection, Member States shall ensure that the determining authority takes a decision to discontinue the examination.

Amendment

1. When there is reasonable cause to consider that an applicant for international protection has implicitly withdrawn or abandoned his/her application for international protection, Member States shall ensure that the determining authority takes a decision *either* to discontinue the examination *or to reject the application on the basis that the applicant has not established an entitlement to refugee status in accordance with Directive 2004/83/EC*.

Or. en

Amendment 207
Monika Hohlmeier

Proposal for a directive
Article 24 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. Member States shall ensure that the applicant who reports again to the competent authority after a decision to discontinue as referred to in paragraph 1 of this Article is taken, is entitled to request that his/her case be reopened.

Amendment

2. Member States shall ensure that the applicant who reports again to the competent authority after a decision to discontinue as referred to in paragraph 1 of this Article is taken, is entitled to request that his/her case be reopened, ***unless the request is examined in accordance with Articles 35 and 36.***

Member States may provide for a time limit after which the applicant's case can no longer be re-opened.

Or. de

Justification

In order to prevent abuse, it must be possible to definitively conclude procedures after a fixed period. There will otherwise be an incentive to refrain from pursuing an asylum procedure seriously and reaching a definite conclusion on the application. Furthermore, without the possibility of concluding the procedure, the six-month time limit for processing asylum applications pursuant to Article 27(3) cannot be respected.

Amendment 208
Simon Busuttil, Georgios Papanikolaou

Proposal for a directive
Article 24 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. Member States shall ensure that the applicant who reports again to the competent authority after a decision to discontinue as referred to in paragraph 1 of this Article is taken, is entitled to request

Amendment

2. Member States shall ensure that the applicant who reports again to the competent authority after a decision to discontinue as referred to in paragraph 1 of this Article is taken, is entitled to request

that his/her case be reopened.

that his/her case be reopened *unless the request is examined in accordance with Articles 32 and 34.*

Or. en

Amendment 209
Nadja Hirsch

Proposal for a directive
Article 24 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. Member States shall ensure that the applicant who reports again to the competent authority after a decision to discontinue as referred to in paragraph 1 of this Article is taken, is entitled to request that his/her case be reopened .

Amendment

2. Member States shall ensure that the applicant who reports again to the competent authority after a decision to discontinue as referred to in paragraph 1 of this Article is taken, is entitled to request that his/her case be reopened . ***Only one such request for a case to be reopened may be submitted during an asylum procedure.***

Or. de

Amendment 210
Nadja Hirsch

Proposal for a directive
Article 24 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Member States may provide for a time limit after which the applicant's case can no longer be re-opened. The time allowed in each case shall be at least one year.

Or. de

Amendment 211
Simon Busuttil, Georgios Papanikolaou

Proposal for a directive
Article 24 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Member States may provide for a time limit after which the applicant's case may no longer be re-opened.

Or. en

Amendment 212

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 24 – paragraph 3

Text proposed by the Commission

Amendment

3. This Article shall be without prejudice to Regulation (EC) No .../... [the Dublin Regulation].

deleted

Or. en

Amendment 213

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 25 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) to have access to applicants for international protection , including those in detention and in airport or port transit zones;

(a) to have **immediate** access to applicants for international protection, including those in detention and in airport or port transit zones;

Or. en

Amendment 214

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 25 – paragraph 1 – point b

Text proposed by the Commission

(b) to have access to information on individual applications for international protection , on the course of the procedure and on the decisions taken, provided that the applicant agrees thereto;

Amendment

(b) to have ***immediate and full*** access to information on individual applications for international protection , on the course of the procedure and on the decisions taken, provided that the applicant agrees thereto;

Or. en

Amendment 215

Ernst Strasser

Proposal for a directive

Article 27 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Member States may extend that time limit for a period not exceeding a further 6 months in individual cases involving complex issues of fact and law.

Amendment

Member States may extend that time limit for a period not exceeding a further 6 months in individual cases involving complex issues of fact and law, ***including cases of applicants with special needs, and in the case of arrivals involving a large number of third-country nationals or stateless persons lodging applications for international protection.***

Or. en

Amendment 216

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 27 – paragraph 4 – subparagraph 1 – point b

Text proposed by the Commission

(b) receive, **upon his/her request**, information on the reasons for the delay and the time-frame within which the decision on his/her application is to be expected.

Amendment

(b) receive information on the reasons for the delay and the time-frame within which the decision on his/her application is to be expected.

Or. en

Amendment 217

Ernst Strasser

Proposal for a directive

Article 27 – paragraph 5 – introductory part

Text proposed by the Commission

5. Member States may prioritise an examination of an application for international protection in accordance with the basic principles and guarantees of Chapter II:

Amendment

5. Member States may prioritise **or accelerate** an examination of an application for international protection in accordance with the basic principles and guarantees of Chapter II:

Or. en

Amendment 218

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 27 – paragraph 5 – introductory part

Text proposed by the Commission

5. **Member States** may prioritise an examination of an application for international protection in accordance with the basic principles and guarantees of Chapter II:

Amendment

5. **The determining authorities** may prioritise an examination of an application for international protection in accordance with the basic principles and guarantees of Chapter II:

Or. en

Amendment 219

Anna Maria Corazza Bildt, Mariya Nedelcheva, Simon Busuttil, Véronique Mathieu

Proposal for a directive

Article 27 – paragraph 5 – point b

Text proposed by the Commission

Amendment

(b) where the applicant has special needs;

(b) where the applicant has special needs,
in particular unaccompanied minors;

Or. en

Amendment 220

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 27 – paragraph 5 – point c

Text proposed by the Commission

Amendment

(c) in other cases with the exception of applications referred to in paragraph 6.

(c) in other cases, *including for environmental and/ or climate reasons*, with the exception of applications referred to in paragraph 6.

Or. en

Amendment 221

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 27 – paragraph 6

Text proposed by the Commission

Amendment

6. Member States may provide that an examination procedure in accordance with the basic principles and guarantees of Chapter II be accelerated if:

deleted

(a) the applicant, in submitting his/her application and presenting the facts, has only raised issues that are not relevant to the examination of whether he/she qualifies as a refugee or a person eligible for subsidiary protection by virtue of Directive [...]/EC [the Qualification Directive] ; or

(b) the applicant is from a safe country of origin within the meaning of this Directive , or

(c) the applicant has misled the authorities by presenting false information or documents or by withholding relevant information or documents with respect to his/her identity and/or nationality that could have had a negative impact on the decision; or

(d) it is likely that, in bad faith, he/she has destroyed or disposed of an identity or travel document that would have helped establish his/her identity or nationality; or

(e) the application was made by an unmarried minor to whom Article 6 (7) (c) applies, after the application of the parents or parent responsible for the minor has been rejected and no relevant new elements were raised with respect to his/her particular circumstances or to the situation in his/her country of origin; or

(f) the applicant is making an application merely in order to delay or frustrate the enforcement of an earlier or imminent decision which would result in his/her removal.

Or. en

Amendment 222

Monika Hohlmeier, Simon Busuttil, Ernst Strasser

Proposal for a directive

Article 27 – paragraph 6 – point a (new)

Text proposed by the Commission

Amendment

(aa) the applicant clearly does not qualify as a refugee or for refugee status in a Member State under Directive [....../EC] [the Qualification Directive]; or

Or. de

Justification

Article 23(4)(b) of Directive 2005/85/EC should be maintained. The possibility of rejecting an application in an accelerated procedure is justified not only in the case of abusive applications, but also in all cases which have no chance of a successful outcome.

Amendment 223

Kyriacos Triantaphyllides, Rui Tavares, Cornelia Ernst, Marie-Christine Vergiat

Proposal for a directive

Article 27 – paragraph 6 – point b

Text proposed by the Commission

Amendment

(b) the applicant is from a safe country of origin within the meaning of this Directive , or ***deleted***

Or. en

Amendment 224

Ernst Strasser

Proposal for a directive

Article 27 – paragraph 6 – point b

Text proposed by the Commission

Amendment

(b) the applicant is from a safe country of origin within the meaning of this Directive, or

(b) the applicant is from a safe country of origin within the meaning of this Directive, or from a country which is not a Member State but is considered to be a safe third country for the applicant, or

Amendment 225
Monika Hohlmeier, Simon Busuttil, Ernst Strasser

Proposal for a directive
Article 27 – paragraph 6 – point c a (new)

Text proposed by the Commission

Amendment

(ca) the applicant has filed another application for asylum stating other personal data with a different content; or

Or. de

Justification

Article 23(4)(e) of Directive 2005/85/EC should be maintained. Initiating more than one procedure with a different content and stating different personal data damages the credibility of persons seeking protection and gives rise to the suspicion that there is an intent to deceive.

Amendment 226
Monika Hohlmeier, Simon Busuttil, Ernst Strasser

Proposal for a directive
Article 27 – paragraph 6 – point d a (new)

Text proposed by the Commission

Amendment

(da) the applicant has made clearly inconsistent, contradictory, improbable, insufficient or false representations which make his/her claim clearly unconvincing in relation to his/her having been the object of persecution referred to in Directive [...]/EC [the Qualification Directive]; or

Or. de

Justification

Article 23(4)(g) of Directive 2005/85/EC should be maintained. The possibility of rejecting an application in an accelerated procedure should also be provided for cases in which the

submissions made by persons seeking protection are clearly unreliable and unbelievable.

Amendment 227

Monika Hohlmeier, Simon Busuttil, Ernst Strasser

Proposal for a directive

Article 27 – paragraph 6 – point d b (new)

Text proposed by the Commission

Amendment

(db) the applicant has submitted a subsequent application which clearly does not raise any relevant new elements with respect to his/her particular circumstances or to the situation in his/her country of origin; or

Or. de

Amendment 228

Monika Hohlmeier, Simon Busuttil, Ernst Strasser

Proposal for a directive

Article 27 – paragraph 6 – point d c (new)

Text proposed by the Commission

Amendment

(dc) the applicant has failed without reasonable cause to make his/her application earlier, having had opportunity to do so; or

Or. de

Amendment 229

Sylvie Guillaume

Proposal for a directive

Article 27 – paragraph 6 – point e

Text proposed by the Commission

Amendment

(e) the application was made by an unmarried minor to whom Article 6 (7) (c)

deleted

applies, after the application of the parents or parent responsible for the minor has been rejected and no relevant new elements were raised with respect to his/her particular circumstances or to the situation in his/her country of origin; or

Or. fr

Justification

See justification to Amendment 9.

Amendment 230

Monika Hohlmeier, Simon Busuttil, Ernst Strasser

Proposal for a directive

Article 27 – paragraph 6 – point f a (new)

Text proposed by the Commission

Amendment

(fa) the applicant has failed without good reason to comply with his/her obligations to cooperate in the examination of the facts of his/her case and the establishment of his/her identity referred to in Article 4(1) and (2) of Directive [...]/EC] [the Qualification Directive] or in Article 12(1) and (2)(a), (b) and (c) and Article 24(1) of this Directive; or

Or. de

Justification

Article 23(4)(k) of Directive 2005/85/EC should be maintained. There should be the possibility of imposing penalties for serious failures to cooperate in a procedure. It is very hard for immigration authorities to prove that travel documents have been destroyed or disposed of in bad faith or that there is a deliberate intent to deceive by withholding relevant information, presenting specific false information, submitting false documents or withholding documents (Article 27(6)(c) and (d) of the Commission proposal).

Amendment 231

Monika Hohlmeier, Simon Busuttil, Ernst Strasser

Proposal for a directive

Article 27 – paragraph 6 – point f b (new)

Text proposed by the Commission

Amendment

(fb) the applicant entered the territory of the Member State unlawfully or prolonged his/her stay unlawfully and, without good reason, has either not presented himself/herself to the authorities and/or filed an application for asylum as soon as possible, given the circumstances of his/her entry; or

Or. de

Amendment 232

Monika Hohlmeier, Simon Busuttil, Ernst Strasser

Proposal for a directive

Article 27 – paragraph 6 – point f c (new)

Text proposed by the Commission

Amendment

(fc) the applicant may for serious reasons be considered a danger to the national security of the Member State, or the applicant has been forcibly expelled for serious reasons of public security and public order under national law.

Or. de

Justification

Article 23(4)(m) of Directive 2005/85/EC should be maintained. The possibility of ordering the immediate removal of persons posing a risk to security is urgently necessary in an age when terrorist networks operate globally.

Amendment 233
Ernst Strasser

Proposal for a directive
Article 27 – paragraph 7

Text proposed by the Commission

7. In cases of unfounded applications, as referred to in Article 28, in which any of the circumstances listed in paragraph 6 apply, Member States may reject an application as manifestly unfounded following an adequate **and complete** examination.

Amendment

7. In cases of unfounded applications, as referred to in Article 28, in which any of the circumstances listed in paragraph 6 apply, Member States may reject an application as manifestly unfounded following an adequate examination.

Or. en

Amendment 234
Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 27 – paragraph 8

Text proposed by the Commission

8. Member States shall lay down reasonable time limits for the adoption of a decision in the procedure at first instance pursuant to paragraph 6.

deleted

Amendment

Or. en

Amendment 235
Monika Hohlmeier

Proposal for a directive
Article 27 – paragraph 9

Text proposed by the Commission

9. The fact that an application for international protection was submitted after an irregular entry into the territory or at the border, including in transit zones, as well

Amendment

9. The fact that an application for international protection was submitted after an irregular entry into the territory or at the border, including in transit zones, as well

as the lack of documents or use of forged documents, shall not per se entail an automatic recourse to an accelerated examination procedure.

as the lack of documents *on entry* or *the* use of forged documents, shall not per se entail an automatic recourse to an accelerated examination procedure.

Or. de

Justification

Asylum seekers may find themselves obliged to use forged travel documents in order to leave the country of persecution. They must however reveal their true identity to the determining authority after entry. An individual case history of persecution can only be established if the identity and nationality of the applicant are known. It is a major security risk to allow persons to remain whose identity has not been established due to a refusal on their part to cooperate.

Amendment 236

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 29 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) a country which is not a Member State is considered as a first country of asylum for the applicant, pursuant to Article 31; *deleted*

Or. en

Amendment 237

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 29 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) a country which is not a Member State is considered as a safe third country for the applicant, pursuant to Article 32; *deleted*

Or. en

Amendment 238

Ernst Strasser

Proposal for a directive

Article 29 – paragraph 2 – point d

Text proposed by the Commission

(d) the applicant has lodged ***an identical*** application ***after a final decision***;

Amendment

(d) the applicant has lodged ***a subsequent*** application ***in accordance with Article2(pa)***;

Or. en

Amendment 239

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 30 – paragraph 2

Text proposed by the Commission

2. Paragraph 1 shall be without prejudice to Article 5 of Regulation (EC) No .../.... [the Dublin Regulation].

Amendment

deleted

Or. en

Amendment 240

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 31 – paragraph 1

Text proposed by the Commission

A country can be considered to be a first country of asylum for a particular applicant for international protection if:

(a) he/she has been recognised in that country as a refugee and he/she can still avail himself/herself of that protection; or

Amendment

A country can be considered to be a first country of asylum for a particular applicant for international protection if:

(a) he/she has been recognised in that country as a refugee and he/she can still avail himself/herself of that protection; or

(b) he/she otherwise enjoys sufficient protection in that country, including benefiting from the principle of non-refoulement;
provided that he/she will be readmitted to that country.

(b) he/she otherwise enjoys sufficient protection in that country, including benefiting from the principle of non-refoulement;

Or. en

Amendment 241

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 31 – paragraph 1 - point b

Text proposed by the Commission

Amendment

(b) he/she otherwise enjoys sufficient protection in that country, including benefiting from the principle of non-refoulement;

deleted

Or. en

Amendment 242

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 31 – paragraph 2

Text proposed by the Commission

Amendment

In applying the concept of first country of asylum to the particular circumstances of an applicant for international protection Member States may take into account Article 32 (1).

deleted

Or. en

Amendment 243

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 32

Text proposed by the Commission

Amendment

The safe third country concept

deleted

1. Member States may apply the safe third country concept only where the competent authorities are satisfied that a person seeking international protection will be treated in accordance with the following principles in the third country concerned:

(a) life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;

(b) there is no risk of serious harm as defined in [Directive .../EC] [the Qualification Directive];

(c) the principle of non-refoulement in accordance with the Geneva Convention is respected;

(d) the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected; and

(e) the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Geneva Convention.

2. The application of the safe third country concept shall be subject to rules laid down in national legislation, including:

(a) rules requiring a connection between the person seeking international protection and the third country concerned on the basis of which it would be reasonable for that person to go to that country;

(b) rules on the methodology by which the competent authorities satisfy themselves that the safe third country concept may be

applied to a particular country or to a particular applicant. Such methodology shall include case-by-case consideration of the safety of the country for a particular applicant and/or national designation of countries considered to be generally safe;

(c) rules in accordance with international law, allowing an individual examination of whether the third country concerned is safe for a particular applicant which, as a minimum, shall permit the applicant to challenge the application of the safe third country concept on the grounds that the third country is not safe in his/her particular circumstances. The applicant shall also be allowed to challenge the existence of a connection between him/her and the third country in accordance with point (a). When implementing a decision solely based on this Article, Member States shall:

3. When implementing a decision solely based on this Article, Member States shall:

(a) inform the applicant accordingly; and

(b) provide him/her with a document informing the authorities of the third country, in the language of that country, that the application has not been examined in substance.

4. Where the third country does not permit the applicant for international protection to enter its territory, Member States shall ensure that access to a procedure is given in accordance with the basic principles and guarantees described in Chapter II.

5. Member States shall inform the Commission periodically of the countries to which this concept is applied in accordance with the provisions of this Article.

Or. en

Amendment 244
Nadja Hirsch

Proposal for a directive
Article 32 – paragraph 1

Text proposed by the Commission

Amendment

- 1. Member States may apply the safe third country concept only where the competent authorities are satisfied that a person seeking international protection will be treated in accordance with the following principles in the third country concerned:**
- a) life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;**
 - b) there is no risk of serious harm as defined in [Directive ..././EC] [the Qualification Directive];**
 - c) the principle of non-refoulement in accordance with the Geneva Convention is respected;**
 - d) the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected; and**
 - e) the possibility exists to request refugee status and, if found to be a refugee, to receive protection in accordance with the Geneva Convention.**

deleted

Or. de

Justification

The aim is to establish a common European asylum system. The definitions of safe third countries must therefore also be uniform in all Member States.

Amendment 245
Nadja Hirsch

Proposal for a directive
Article 32 – paragraph 2

Text proposed by the Commission

Amendment

2. The application of the safe third country concept shall be subject to rules laid down in national legislation, including: *deleted*

(a) rules requiring a connection between the person seeking international protection and the third country concerned on the basis of which it would be reasonable for that person to go to that country;

(b) rules on the methodology by which the competent authorities satisfy themselves that the safe third country concept may be applied to a particular country or to a particular applicant. Such methodology shall include case-by-case consideration of the safety of the country for a particular applicant and/or national designation of countries considered to be generally safe;

(c) rules in accordance with international law, allowing an individual examination of whether the third country concerned is safe for a particular applicant which, as a minimum, shall permit the applicant to challenge the application of the safe third country concept on the grounds that the third country is not safe in his/her particular circumstances. The applicant shall also be allowed to challenge the existence of a connection between him/her and the third country in accordance with point (a) .

Or. de

Amendment 246
Nadja Hirsch

Proposal for a directive
Article 32 – paragraph 3

Text proposed by the Commission

Amendment

3. When implementing a decision solely based on this Article, Member States shall: *deleted*

- (a) inform the applicant accordingly; and*
- (b) provide him/her with a document informing the authorities of the third country, in the language of that country, that the application has not been examined in substance.*

Or. de

Amendment 247
Nadja Hirsch

Proposal for a directive
Article 32 – paragraph 4

Text proposed by the Commission

Amendment

4. Where the third country does not permit the applicant for international protection to enter its territory, Member States shall ensure that access to a procedure is given in accordance with the basic principles and guarantees described in Chapter II. *deleted*

Or. de

Amendment 248
Nadja Hirsch

Proposal for a directive
Article 32 – paragraph 5

Text proposed by the Commission

Amendment

5. Member States shall inform the Commission periodically of the countries to which this concept is applied in accordance with the provisions of this Article. *deleted*

Or. de

Amendment 249

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive Article 33

Text proposed by the Commission

Amendment

National designation of third countries as safe countries of origin *deleted*

1. Member States may retain or introduce legislation that allows, in accordance with Annex II, for the national designation of safe countries of origin for the purposes of examining applications for international protection .

2. new Member States shall ensure a regular review of the situation in third countries designated as safe in accordance with this Article.

3. The assessment of whether a country is a safe country of origin in accordance with this Article shall be based on a range of sources of information, including in particular information from other Member States, the European Asylum Support Office, the UNHCR, the Council of Europe and other relevant international organisations.

4. Member States shall notify to the Commission the countries that are designated as safe countries of origin in

accordance with this Article.

Or. en

Amendment 250

Nadja Hirsch

Proposal for a directive

Article 33

Text proposed by the Commission

Amendment

National designation of third countries as safe countries of origin ***deleted***

1. Member States may retain or introduce legislation that allows, in accordance with Annex II, for the national designation of safe countries of origin for the purposes of examining applications for international protection. .

2. Member States shall ensure a regular review of the situation in third countries designated as safe in accordance with this Article.

3. The assessment of whether a country is a safe country of origin in accordance with this Article shall be based on a range of sources of information, including in particular information from other Member States, the European Asylum Support Office, the UNHCR, the Council of Europe and other relevant international organisations.

4. Member States shall notify to the Commission the countries that are designated as safe countries of origin in accordance with this Article.

Or. de

Justification

The aim is to establish a common European asylum system. The definitions of safe third countries must therefore also be uniform in all Member States.

Amendment 251

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive Article 34

Text proposed by the Commission

Amendment

The safe country of origin concept **deleted**

1. A third country designated as a safe country of origin in accordance with this Directive may, after an individual examination of the application, be considered as a safe country of origin for a particular applicant only if:

(a) he/she has the nationality of that country; or

(b) he/she is a stateless person and was formerly habitually resident in that country;

(c) and he/she has not submitted any serious grounds for considering the country not to be a safe country of origin in his/her particular circumstances and in terms of his/her qualification as a refugee or a person eligible for subsidiary protection in accordance with [Directive ..././EC] [the Qualification Directive].

2. Member States shall lay down in national legislation further rules and modalities for the application of the safe country of origin concept.

Or. en

Amendment 252 Nadja Hirsch

Proposal for a directive Article 34

The safe country of origin concept ***deleted***

1. A third country designated as a safe country of origin in accordance with this Directive may, after an individual examination of the application, be considered as a safe country of origin for a particular applicant only if:

(a) he/she has the nationality of that country;

(b) he/she is a stateless person and was formerly habitually resident in that country;

(c) and he/she has not submitted any serious grounds for considering the country not to be a safe country of origin in his/her particular circumstances and in terms of his/her qualification as a refugee or a person eligible for subsidiary protection in accordance with [Directive ..././EC] [the Qualification Directive].

2. Member States shall lay down in national legislation further rules and modalities for the application of the safe country of origin concept.

Or. de

Justification

The aim is to establish a common European asylum system. The definitions of safe third countries must therefore also be uniform in all Member States.

Amendment 253
Monika Hohlmeier

Proposal for a directive
Article 35 – paragraph 2 – introductory part

Text proposed by the Commission

2. For the purpose of taking a decision on the admissibility of an application for international protection ***pursuant to Article 29 (2) (d)***, Member States may apply a specific procedure as referred to in paragraph 3 of this Article , where a person makes a subsequent application for international protection:

Amendment

2. For the purpose of taking a decision on the admissibility of an application for international protection, Member States may apply a specific procedure as referred to in paragraph 3 of this Article , where a person makes a subsequent application for international protection:

Or. de

Amendment 254
Monika Hohlmeier

Proposal for a directive
Article 35 – paragraph 2 – point a

Text proposed by the Commission

(a) after his/her previous application has been withdrawn by virtue of Article 23;

Amendment

(a) after his/her previous application has been withdrawn by virtue of Article 23 ***or 24 or he/she has decided not to pursue the procedure***;

Or. de

Amendment 255
Simon Busuttil, Georgios Papanikolaou

Proposal for a directive
Article 35 – paragraph 2 – point a

Text proposed by the Commission

(a) after his/her previous application has been withdrawn by virtue of Article 23;

Amendment

(a) after his/her previous application has been withdrawn ***or abandoned*** by virtue of Article 23;

Or. en

Amendment 256
Ernst Strasser

Proposal for a directive
Article 35 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

In the case of subsequent applications, Member States may derogate from their obligations under Articles 7, 9, 11 and 18, as they were already fulfilled within the former procedure.

Or. en

Amendment 257
Sophia in 't Veld

Proposal for a directive
Article 35 – paragraph 6

Text proposed by the Commission

Amendment

6. Member States may decide to further examine the application only if the applicant concerned was, through no fault of his/her own, incapable of asserting the situations set forth in paragraphs 3, 4 and 5 of this Article in the previous procedure, in particular by exercising his/her right to an effective remedy pursuant to Article 41. ***deleted***

Or. en

Amendment 258
Ernst Strasser

Proposal for a directive
Article 35 – paragraph 8 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

8. If, following a final decision **to consider a subsequent application inadmissible**

8. If, following a final decision, the person concerned lodges a new application for

pursuant to Article 29 (2) (d) or a final decision to reject a subsequent application as unfounded, the person concerned lodges a new application for international protection in the same Member State before a return decision has been enforced, that Member State may:

international protection in the same Member State before a return decision has been enforced, that Member State may:

Or. en

Amendment 259
Monika Hohlmeier

Proposal for a directive
Article 35 – paragraph 8 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

8. If, ***following a final decision to consider a subsequent application inadmissible pursuant to Article 29 (2) (d) or a final decision to reject a subsequent application as unfounded***, the person concerned lodges a new application for international protection in the same Member State before a return decision has been enforced, that Member State may:

8. If, ***after the procedure relating to the initial application has been terminated pursuant to paragraph 2***, the person concerned lodges a new application for international protection in the same Member State before a return decision has been enforced, ***and that new application does not lead to a further examination pursuant to this article***, that Member State may:

Or. de

Justification

In the interests of procedural efficiency, which is among the objectives, and to avoid procedures dragging on, an accelerated procedure should be possible not after the third inadmissible application but after the second.

Amendment 260
Monika Hohlmeier

Proposal for a directive
Article 35 – paragraph 8 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) provide that the application be subjected to the admissibility procedure in accordance with this Article **and Article 29**; and/or

(b) provide that the application be subjected to the admissibility procedure in accordance with this Article; and/or

Or. de

Justification

The admissibility procedure for a subsequent application must not be restricted. Otherwise, unjustified procedural delays, rises in costs and protracted stays would be unavoidable.

Amendment 261

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive Article 35 – paragraph 9

Text proposed by the Commission

Amendment

9. Where a person with regard to whom a transfer decision has to be enforced pursuant to Regulation (EC) [.../...] [the Dublin Regulation] makes further representations or a subsequent application in the transferring Member State, those representations or subsequent applications shall be examined by the responsible Member State, as defined in Regulation (EC) [.../...] [the Dublin Regulation], in accordance with this Directive.

deleted

Or. en

Amendment 262
Monika Hohlmeier, Simon Busuttill

Proposal for a directive
Article 36 – paragraph 2 – subparagraph 1 – point a (new)

Text proposed by the Commission

Amendment

(aa) set an appropriate period within which the applicant must submit the new information after learning thereof;

Or. de

Justification

Applicants should continue to be required to submit the new information which has come to their knowledge within an appropriate period. If the applicant delays the submission of this new information, it damages his credibility and gives rise to a suspicion that he is attempting to delay the procedure.

Amendment 263
Monika Hohlmeier

Proposal for a directive
Article 36 – paragraph 2 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) permit the preliminary examination to be conducted on the sole basis of written submissions without a personal interview, with the exception of cases referred to in Article 35(7).

(b) permit the preliminary examination to be conducted on the sole basis of written submissions without a personal interview.

Or. de

Amendment 264

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 37 – paragraph 1 – introductory part

Text proposed by the Commission

1. Member States may provide for procedures, in accordance with the basic principles and guarantees of Chapter II, in order to decide at the border or transit zones of the Member State on:

Amendment

1. Member States may provide for procedures, in accordance with the basic principles and guarantees of Chapter II, in order **for determining authorities** to decide at the border or transit zones of the Member State on:

Or. en

Amendment 265
Monika Hohlmeier

Proposal for a directive
Article 37 – paragraph 1 – point b

Text proposed by the Commission

(b) the substance of an application **in an accelerated procedure pursuant to Article 27(6)**.

Amendment

(b) the substance of an application.

Or. de

Justification

The substance of an application in a border procedure cannot be restricted to the preconditions for accelerated procedures pursuant to Article 27(6), as border procedures serve different purposes.

Amendment 266

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 37 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that a decision in the framework of the procedures provided for in paragraph 1 is

Amendment

2. Member States shall ensure that a decision in the framework of the procedures provided for in paragraph 1 is

taken within a reasonable time. When a decision has not been taken within four weeks, the applicant shall be granted entry to the territory of the Member State in order for his/her application to be processed in accordance with the other provisions of this Directive.

taken within a reasonable time ***and as long as these third country nationals or stateless persons are accommodated normally at locations close to the border or transit zone.*** When a decision has not been taken within four weeks, the applicant shall be granted entry to the territory of the Member State in order for his/her application to be processed in accordance with the other provisions of this Directive.

Or. en

Amendment 267

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive Article 38

Text proposed by the Commission

Amendment

The European safe third countries concept

deleted

1. Member States may provide that no, or no full, examination of the asylum application and of the safety of the applicant in his/her particular circumstances as described in Chapter II, shall take place in cases where a competent authority has established, on the basis of the facts, that the applicant for international protection is seeking to enter or has entered illegally into its territory from a safe third country according to paragraph 2.

2. A third country can only be considered as a safe third country for the purposes of paragraph 1 where:

(a) it has ratified and observes the provisions of the Geneva Convention without any geographical limitations;

(b) it has in place an asylum procedure prescribed by law; and

(c) it has ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms and observes its provisions, including the standards relating to effective remedies.

3. The Member States concerned shall lay down in national law the modalities for implementing the provisions of paragraph 1 and the consequences of decisions pursuant to those provisions in accordance with the principle of non-refoulement, including providing for exceptions from the application of this Article for humanitarian or political reasons or for reasons of public international law.

4. When implementing a decision solely based on this Article, the Member States concerned shall:

(a) inform the applicant accordingly; and

(b) provide him/her with a document informing the authorities of the third country, in the language of that country, that the application has not been examined in substance.

5. Where the safe third country does not re-admit the applicant for asylum, Member States shall ensure that access to a procedure is given in accordance with the basic principles and guarantees described in Chapter II.

Or. en

Amendment 268
Nadja Hirsch

Proposal for a directive
Article 38 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) it has been so designated by the Council in accordance with paragraph 3.

Justification

The aim is to establish a common European asylum system. The definitions of safe third countries must therefore also be uniform in all Member States.

Amendment 269

Nadja Hirsch

Proposal for a directive

Article 38 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Council shall, acting by qualified majority on a proposal from the Commission and after consultation of the European Parliament, adopt or amend a common list of third countries that shall be regarded as safe third countries for the purposes of paragraph 1.

Justification

The aim is to establish a common European asylum system. The definitions of safe third countries must therefore also be uniform in all Member States.

Amendment 270

Nadja Hirsch

Proposal for a directive

Article 38 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Member States which have designated third countries as safe countries in accordance with national legislation in force on 1 December 2005 and on the basis of the criteria in paragraph 2(a), (b)

and (c), may apply paragraph 1 to these third countries until the Council has adopted the common list pursuant to paragraph 3.

Or. de

Justification

The aim is to establish a common European asylum system. The definitions of safe third countries must therefore also be uniform in all Member States.

Amendment 271

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive

Article 40 – paragraph 1 – subparagraph 2 – point b

Text proposed by the Commission

(b) where information on an individual case is collected for the purposes of reconsidering the international protection status, it is not obtained from the actor(s) of persecution or serious harm in a manner that would result in such actor(s) being directly informed of the fact that the person concerned is a beneficiary of international protection whose status is under reconsideration, nor jeopardise the physical integrity of the person and his/her dependants, or the liberty and security of his/her family members still living in the country of origin.

Amendment

(b) where information on an individual case is collected for the purposes of reconsidering the international protection status, it is not obtained from the actor(s) of persecution or serious harm in a manner that would result in such actor(s) being directly *or indirectly* informed of the fact that the person concerned is a beneficiary of international protection whose status is under reconsideration, nor jeopardise the physical integrity of the person and his/her dependants, or the liberty and security of his/her family members still living in the country of origin.

Or. en

Amendment 272

Monika Hohlmeier

Proposal for a directive

Article 40 – paragraph 4

Text proposed by the Commission

4. By derogation to paragraphs 1, 2 and 3 of this Article, Member States may decide that the ***international protection*** status shall lapse by law if the ***beneficiary of international protection*** has unequivocally renounced his/her recognition as a ***beneficiary of international protection***.

Amendment

4. By derogation to paragraphs 1, 2 and 3 of this Article, Member States may decide that the ***refugee*** status shall lapse by law ***in case of cessation in accordance with Article 11(1)(a) to (d) of Directive [...]/EC (Qualification Directive)*** or if the ***refugee*** has unequivocally renounced his/her recognition as a ***refugee***.

Or. de

Amendment 273
Monika Hohlmeier

Proposal for a directive
Article 41 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) a decision not to further examine the subsequent application pursuant to Articles 35 and 36;

Or. de

Amendment 274
Ernst Strasser

Proposal for a directive
Article 41 – paragraph 3

Text proposed by the Commission

Amendment

3. Member States shall ensure that the effective remedy referred to in paragraph 1 provides for a full examination ***of both facts and points of law, including an ex nunc examination of the international protection needs pursuant to Directive [...]/EC [the Qualification Directive]***, at least in appeal procedures before a court or tribunal of first instance.

3. Member States shall ensure that the effective remedy referred to in paragraph 1 provides for a full examination at least in appeal procedures before a court or tribunal of first instance.

Amendment 275
Ernst Strasser

Proposal for a directive
Article 41 – paragraph 5

Text proposed by the Commission

5. Without prejudice to paragraph 6, the remedy provided for in paragraph 1 of this Article shall have the effect of allowing applicants to remain in the Member State concerned pending its outcome.

Amendment

5. Without prejudice to paragraph 6 **and 7**, the remedy provided for in paragraph 1 of this Article shall have the effect of allowing applicants to remain in the Member State concerned pending its outcome.

Amendment 276
Monika Hohlmeier

Proposal for a directive
Article 41 – paragraph 5

Text proposed by the Commission

5. Without prejudice to paragraph 6, the remedy provided for in paragraph 1 of this Article shall have the effect of allowing applicants to remain in the Member State concerned pending its outcome.

Amendment

5. Without prejudice to paragraph 6, **Member States shall lay down that** the remedy provided for in paragraph 1 of this Article shall have the effect of allowing applicants to remain in the Member State concerned pending its outcome.

Amendment 277

Hélène Flautre on behalf of the Verts/ALE Group

Proposal for a directive
Article 41 – paragraph 6 – subparagraph 1

Text proposed by the Commission

Amendment

6. In the case of a decision taken in the accelerated procedure pursuant to Article 27 (6) and of a decision to consider an application inadmissible pursuant to Article 29 (2) (d), and where the right to remain in the Member State pending the outcome of the remedy is not foreseen under national legislation, a court or tribunal shall have the power to rule whether or not the applicant may remain on the territory of the Member State, either upon request of the concerned applicant or acting on its own motion.

deleted

Or. en

Amendment 278
Ernst Strasser

Proposal for a directive
Article 41 – paragraph 6 – subparagraph 1

Text proposed by the Commission

Amendment

6. In the case of a decision taken in the accelerated procedure pursuant to Article 27 (6) **and of a decision to consider an application inadmissible pursuant to Article 29 (2) (d)**, and where the right to remain in the Member State pending the outcome of the remedy is not foreseen under national legislation, a court or tribunal shall have the power to rule whether or not the applicant may remain on the territory of the Member State, either upon request of the concerned applicant or acting on its own motion.

6. In the case of a decision taken in the accelerated procedure pursuant to Article 27 (6) and where the right to remain in the Member State pending the outcome of the remedy is not foreseen under national legislation, a court or tribunal shall have the power to rule whether or not the applicant may remain on the territory of the Member State, either upon request of the concerned applicant or acting on its own motion.

Or. en

Amendment 279
Monika Hohlmeier

Proposal for a directive
Article 41 – paragraph 6

Text proposed by the Commission

6. In the case of a decision *taken in the accelerated procedure pursuant to Article 27 (6) and of a decision to consider an application inadmissible pursuant to Article 29 (2) (d), and where the right to remain in the Member State pending the outcome of the remedy is not foreseen under national legislation, a court or tribunal shall have the power to rule whether or not the applicant may remain on the territory of the Member State, either upon request of the concerned applicant or acting on its own motion.*

This paragraph shall not apply to procedures referred to in Article 37.

Amendment

6. In the case of a decision:

- (a) taken in the accelerated procedure pursuant to Article 27(6),*
 - (b) to consider an application manifestly unfounded pursuant to Article 27(7),*
 - (c) to consider an application inadmissible pursuant to Article 29(2)(a) or (d),*
 - (d) not to further examine, pursuant to Chapter II of this Directive, the subsequent application pursuant to Articles 35 and 36,*
 - (e) to refuse to reopen the examination of an application after its discontinuation pursuant to Articles 23 and 24,*
 - (f) in the procedure pursuant to Article 37,*
 - (g) not to conduct an examination pursuant to Article 38,*
- where the right to remain in the Member State pending the outcome of the remedy is not foreseen under national legislation, a court or tribunal shall have the power to rule whether or not the applicant may remain on the territory of the Member State, either at the request of the applicant*

or – if national legislation provides for this – acting on its own motion.

Or. de

Justification

Automatic suspensive effect would fail to take account of the facts of the individual case. The competent courts must be given a classification of situations for use in making a differentiated assessment of the individual case. The courts should be able to decide on suspensive effect in the light of the individual case.

Amendment 280
Ernst Strasser

Proposal for a directive
Article 41 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. In the case of an application which is inadmissible pursuant to Article 29(2)(d) and where a valid expulsion order is in force, Member States may not allow the applicant to remain in their territory pending the outcome of the remedy.

Or. en

Amendment 281
Monika Hohlmeier

Proposal for a directive
Article 41 – paragraph 7

Text proposed by the Commission

Amendment

7. Member States shall allow the applicant to remain in the territory pending the outcome of the procedure referred to in paragraph 6.

7. Member States shall allow the applicant to remain in the territory pending the outcome of the procedure referred to in paragraph 6; ***an exception may apply for subsequent applications which do not lead to a further examination pursuant to Articles 35 and 36, if a return decision***

pursuant to Article 3(4) of Directive 2008/11/EC has been taken, and for decisions in the procedure pursuant to Article 38 if this is provided for in national legislation.

Or. de

Amendment 282
Monika Hohlmeier, Simon Busuttil

Proposal for a directive
Article 41 – paragraph 9

Text proposed by the Commission

9. Member States **shall** lay down time-limits for the court or tribunal pursuant to paragraph 1 to examine the decision of the determining authority.

Amendment

9. Member States **may** lay down time-limits for the court or tribunal pursuant to paragraph 1 to examine the decision of the determining authority.

Or. de

Justification

As the courts are independent, it is impossible to lay down a binding time-limit for their decision.

Amendment 283
Monika Hohlmeier, Simon Busuttil

Proposal for a directive
Article 45

Text proposed by the Commission

No later than [...], the Commission shall report to the European Parliament and the Council on the application of this Directive in the Member States and shall propose any amendments that are necessary. Member States shall send the Commission all the information that is appropriate for drawing up this report. After presenting the report,

Amendment

No later than [...], the Commission shall report to the European Parliament and the Council on the application of this Directive in the Member States and shall propose any amendments that are necessary. Member States shall send the Commission all the information that is appropriate for drawing up this report. After presenting the report,

the Commission shall report to the European Parliament and the Council on the application of this Directive in the Member States at least every *five* years.

the Commission shall report to the European Parliament and the Council on the application of this Directive in the Member States at least every *two* years.

Or. de

Justification

For reasons of transparency, the Commission should report to Parliament and the Council every two years.

Amendment 284

Georgios Papanikolaou, Simon Busuttil

Proposal for a directive

Article 45

Text proposed by the Commission

No later than [...], the Commission shall report to the European Parliament and the Council on the application of this Directive in the Member States and shall propose any amendments that are necessary. Member States shall send the Commission all the information that is appropriate for drawing up this report. After presenting the report, the Commission shall report to the European Parliament and the Council on the application of this Directive in the Member States at least every five years.

Amendment

No later than [...], the Commission shall report to the European Parliament and the Council on the application *and the financial cost* of this Directive in the Member States and shall propose any amendments that are necessary. Member States shall send the Commission all the information *and financial data* that is appropriate for drawing up this report. After presenting the report, the Commission shall report to the European Parliament and the Council on the application of this Directive in the Member States at least every five years.

Or. en

Amendment 285

Nadja Hirsch

Proposal for a directive

Article 46 – subparagraph 2

Text proposed by the Commission

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 27(3) by [**3 years** from the date of the transposition]. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

Amendment

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 27(3) by [**2 years** from the date of the transposition]. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

Or. de

Amendment 286

Hélène Flautre on behalf of the Verts/ALE Group

**Proposal for a directive
Annex II**

Text proposed by the Commission

Designation of safe countries of origin for the purposes of Article 33(1)

A country is considered as a safe country of origin where, on the basis of the legal situation, the application of the law within a democratic system and the general political circumstances, it can be shown that there is generally and consistently no persecution as defined in Article 9 of Directive [...]/EC [the Qualification Directive], no torture or inhuman or degrading treatment or punishment and no threat by reason of indiscriminate violence in situations of international or internal armed conflict.

In making this assessment, account shall be taken, inter alia, of the extent to which protection is provided against persecution or mistreatment by:

(a) the relevant laws and regulations of the country and the manner in which they are applied;

Amendment

deleted

(b) observance of the rights and freedoms laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or the International Covenant for Civil and Political Rights and/or the Convention against Torture, in particular the rights from which derogation cannot be made under Article 15(2) of the said European Convention;
(c) respect of the non-refoulement principle according to the Geneva Convention;
(d) provision for a system of effective remedies against violations of these rights and freedoms.

Or. en